

1 **TITLE VI—TRANSPORTATION**
2 **PLANNING AND PROJECT DE-**
3 **LIVERY**

4 **SEC. 6001. TRANSPORTATION PLANNING.**

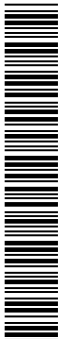
5 (a) IN GENERAL.—Sections 134 and 135 of title 23,
6 United States Code, are amended to read as follows:

7 **“§ 134. Metropolitan transportation planning**

8 “(a) POLICY.—It is in the national interest to—

9 “(1) encourage and promote the safe and effi-
10 cient management, operation, and development of
11 surface transportation systems that will serve the
12 mobility needs of people and freight and foster eco-
13 nomic growth and development within and between
14 States and urbanized areas, while minimizing trans-
15 portation-related fuel consumption and air pollution
16 through metropolitan and statewide transportation
17 planning processes identified in this chapter; and

18 “(2) encourage the continued improvement and
19 evolution of the metropolitan and statewide trans-
20 portation planning processes by metropolitan plan-
21 ning organizations, State departments of transpor-
22 tation, and public transit operators as guided by the



1 planning factors identified in subsection (h) and sec-
2 tion 135(d).

3 “(b) DEFINITIONS.—In this section and section 135,
4 the following definitions apply:

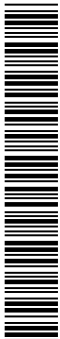
5 “(1) METROPOLITAN PLANNING AREA.—The
6 term ‘metropolitan planning area’ means the geo-
7 graphic area determined by agreement between the
8 metropolitan planning organization for the area and
9 the Governor under subsection (e).

10 “(2) METROPOLITAN PLANNING ORGANIZA-
11 TION.—The term ‘metropolitan planning organiza-
12 tion’ means the policy board of an organization cre-
13 ated as a result of the designation process in sub-
14 section (d).

15 “(3) NONMETROPOLITAN AREA.—The term
16 ‘nonmetropolitan area’ means a geographic area out-
17 side designated metropolitan planning areas.

18 “(4) NONMETROPOLITAN LOCAL OFFICIAL.—
19 The term ‘nonmetropolitan local official’ means
20 elected and appointed officials of general purpose
21 local government in a nonmetropolitan area with re-
22 sponsibility for transportation.

23 “(5) TIP.—The term ‘TIP’ means a transpor-
24 tation improvement program developed by a metro-
25 politan planning organization under subsection (j).



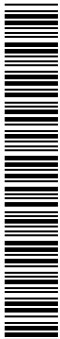
1 “(6) URBANIZED AREA.—The term ‘urbanized
2 area’ means a geographic area with a population of
3 50,000 or more, as designated by the Bureau of the
4 Census.

5 “(c) GENERAL REQUIREMENTS.—

6 “(1) DEVELOPMENT OF LONG-RANGE PLANS
7 AND TIPS.—To accomplish the objectives in sub-
8 section (a), metropolitan planning organizations des-
9 ignated under subsection (d), in cooperation with the
10 State and public transportation operators, shall de-
11 velop long-range transportation plans and transpor-
12 tation improvement programs for metropolitan plan-
13 ning areas of the State.

14 “(2) CONTENTS.—The plans and TIPs for each
15 metropolitan area shall provide for the development
16 and integrated management and operation of trans-
17 portation systems and facilities (including accessible
18 pedestrian walkways and bicycle transportation fa-
19 cilities) that will function as an intermodal transpor-
20 tation system for the metropolitan planning area
21 and as an integral part of an intermodal transpor-
22 tation system for the State and the United States.

23 “(3) PROCESS OF DEVELOPMENT.—The process
24 for developing the plans and TIPs shall provide for
25 consideration of all modes of transportation and



1 shall be continuing, cooperative, and comprehensive
2 to the degree appropriate, based on the complexity
3 of the transportation problems to be addressed.

4 “(d) DESIGNATION OF METROPOLITAN PLANNING
5 ORGANIZATIONS.—

6 “(1) IN GENERAL.—To carry out the transpor-
7 tation planning process required by this section, a
8 metropolitan planning organization shall be des-
9 ignated for each urbanized area with a population of
10 more than 50,000 individuals—

11 “(A) by agreement between the Governor
12 and units of general purpose local government
13 that together represent at least 75 percent of
14 the affected population (including the largest
15 incorporated city (based on population) as
16 named by the Bureau of the Census); or

17 “(B) in accordance with procedures estab-
18 lished by applicable State or local law.

19 “(2) STRUCTURE.—Each metropolitan planning
20 organization that serves an area designated as a
21 transportation management area, when designated
22 or redesignated under this subsection, shall consist
23 of—

24 “(A) local elected officials;



1 “(B) officials of public agencies that ad-
2 minister or operate major modes of transpor-
3 tation in the metropolitan area; and

4 “(C) appropriate State officials.

5 “(3) LIMITATION ON STATUTORY CONSTRUC-
6 TION.—Nothing in this subsection shall be construed
7 to interfere with the authority, under any State law
8 in effect on December 18, 1991, of a public agency
9 with multimodal transportation responsibilities to—

10 “(A) develop the plans and TIPs for adop-
11 tion by a metropolitan planning organization;
12 and

13 “(B) develop long-range capital plans, co-
14 ordinate transit services and projects, and carry
15 out other activities pursuant to State law.

16 “(4) CONTINUING DESIGNATION.—A designa-
17 tion of a metropolitan planning organization under
18 this subsection or any other provision of law shall
19 remain in effect until the metropolitan planning or-
20 ganization is redesignated under paragraph (5).

21 “(5) REDESIGNATION PROCEDURES.—A metro-
22 politan planning organization may be redesignated
23 by agreement between the Governor and units of
24 general purpose local government that together rep-
25 resent at least 75 percent of the existing planning



1 area population (including the largest incorporated
2 city (based on population) as named by the Bureau
3 of the Census) as appropriate to carry out this sec-
4 tion.

5 “(6) DESIGNATION OF MORE THAN 1 METRO-
6 POLITAN PLANNING ORGANIZATION.—More than 1
7 metropolitan planning organization may be des-
8 ignated within an existing metropolitan planning
9 area only if the Governor and the existing metropoli-
10 tan planning organization determine that the size
11 and complexity of the existing metropolitan planning
12 area make designation of more than 1 metropolitan
13 planning organization for the area appropriate.

14 “(e) METROPOLITAN PLANNING AREA BOUND-
15 ARIES.—

16 “(1) IN GENERAL.—For the purposes of this
17 section, the boundaries of a metropolitan planning
18 area shall be determined by agreement between the
19 metropolitan planning organization and the Gov-
20 ernor.

21 “(2) INCLUDED AREA.—Each metropolitan
22 planning area—

23 “(A) shall encompass at least the existing
24 urbanized area and the contiguous area ex-



1 pected to become urbanized within a 20-year
2 forecast period for the transportation plan; and

3 “(B) may encompass the entire metropoli-
4 tan statistical area or consolidated metropolitan
5 statistical area, as defined by the Bureau of the
6 Census.

7 “(3) IDENTIFICATION OF NEW URBANIZED
8 AREAS WITHIN EXISTING PLANNING AREA BOUND-
9 ARIES.—The designation by the Bureau of the Cen-
10 sus of new urbanized areas within an existing metro-
11 politan planning area shall not require the redesign-
12 nation of the existing metropolitan planning organi-
13 zation.

14 “(4) EXISTING METROPOLITAN PLANNING
15 AREAS IN NONATTAINMENT.—Notwithstanding para-
16 graph (2), in the case of an urbanized area des-
17 ignated as a nonattainment area for ozone or carbon
18 monoxide under the Clean Air Act (42 U.S.C. 7401
19 et seq.) as of the date of enactment of the
20 SAFETEA-LU, the boundaries of the metropolitan
21 planning area in existence as of such date of enact-
22 ment shall be retained; except that the boundaries
23 may be adjusted by agreement of the Governor and
24 affected metropolitan planning organizations in the
25 manner described in subsection (d)(5).



1 “(5) NEW METROPOLITAN PLANNING AREAS IN
2 NONATTAINMENT.—In the case of an urbanized area
3 designated after the date of enactment of the
4 SAFETEA-LU, as a nonattainment area for ozone
5 or carbon monoxide, the boundaries of the metropoli-
6 tan planning area—

7 “(A) shall be established in the manner de-
8 scribed in subsection (d)(1);

9 “(B) shall encompass the areas described
10 in paragraph (2)(A);

11 “(C) may encompass the areas described in
12 paragraph (2)(B); and

13 “(D) may address any nonattainment area
14 identified under the Clean Air Act for ozone or
15 carbon monoxide.

16 “(f) COORDINATION IN MULTISTATE AREAS.—

17 “(1) IN GENERAL.—The Secretary shall encour-
18 age each Governor with responsibility for a portion
19 of a multistate metropolitan area and the appro-
20 priate metropolitan planning organizations to pro-
21 vide coordinated transportation planning for the en-
22 tire metropolitan area.

23 “(2) INTERSTATE COMPACTS.—The consent of
24 Congress is granted to any 2 or more States—



1 “(A) to enter into agreements or compacts,
2 not in conflict with any law of the United
3 States, for cooperative efforts and mutual as-
4 sistance in support of activities authorized
5 under this section as the activities pertain to
6 interstate areas and localities within the States;
7 and

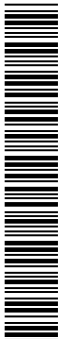
8 “(B) to establish such agencies, joint or
9 otherwise, as the States may determine desir-
10 able for making the agreements and compacts
11 effective.

12 “(3) LAKE TAHOE REGION.—

13 “(A) DEFINITION.—In this paragraph, the
14 term ‘Lake Tahoe region’ has the meaning
15 given the term ‘region’ in subdivision (a) of ar-
16 ticle II of the Tahoe Regional Planning Com-
17 pact, as set forth in the first section of Public
18 Law 96–551 (94 Stat. 3234).

19 “(B) TRANSPORTATION PLANNING PROC-
20 ESS.—The Secretary shall—

21 “(i) establish with the Federal land
22 management agencies that have jurisdic-
23 tion over land in the Lake Tahoe region a
24 transportation planning process for the re-
25 gion; and



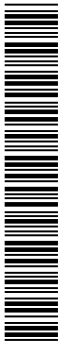
1 “(ii) coordinate the transportation
2 planning process with the planning process
3 required of State and local governments
4 under this section and section 135.

5 “(C) INTERSTATE COMPACT.—

6 “(i) IN GENERAL.—Subject to clause
7 (ii), and notwithstanding subsection (b), to
8 carry out the transportation planning proc-
9 ess required by this section, the consent of
10 Congress is granted to the States of Cali-
11 fornia and Nevada to designate a metro-
12 politan planning organization for the Lake
13 Tahoe region, by agreement between the
14 Governors of the States of California and
15 Nevada and units of general purpose local
16 government that together represent at
17 least 75 percent of the affected population
18 (including the central city or cities (as de-
19 fined by the Bureau of the Census)), or in
20 accordance with procedures established by
21 applicable State or local law.

22 “(ii) INVOLVEMENT OF FEDERAL
23 LAND MANAGEMENT AGENCIES.—

24 “(I) REPRESENTATION.—The
25 policy board of a metropolitan plan-

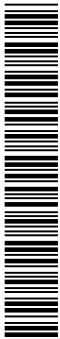


1 ning organization designated under
2 clause (i) shall include a representa-
3 tive of each Federal land management
4 agency that has jurisdiction over land
5 in the Lake Tahoe region.

6 “(II) FUNDING.—In addition to
7 funds made available to the metropoli-
8 tan planning organization for the
9 Lake Tahoe region under other provi-
10 sions of this title and under chapter
11 53 of title 49, 1 percent of the funds
12 allocated under section 202 shall be
13 used to carry out the transportation
14 planning process for the Lake Tahoe
15 region under this subparagraph.

16 “(D) ACTIVITIES.—Highway projects in-
17 cluded in transportation plans developed under
18 this paragraph—

19 “(i) shall be selected for funding in a
20 manner that facilitates the participation of
21 the Federal land management agencies
22 that have jurisdiction over land in the
23 Lake Tahoe region; and



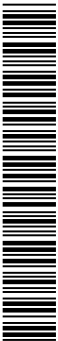
1 “(ii) may, in accordance with chapter
2 2, be funded using funds allocated under
3 section 202.

4 “(4) RESERVATION OF RIGHTS.—The right to
5 alter, amend, or repeal interstate compacts entered
6 into under this subsection is expressly reserved.

7 “(g) MPO CONSULTATION IN PLAN AND TIP Co-
8 ORDINATION.—

9 “(1) NONATTAINMENT AREAS.—If more than 1
10 metropolitan planning organization has authority
11 within a metropolitan area or an area which is des-
12 ignated as a nonattainment area for ozone or carbon
13 monoxide under the Clean Air Act, each metropoli-
14 tan planning organization shall consult with the
15 other metropolitan planning organizations des-
16 ignated for such area and the State in the coordina-
17 tion of plans and TIPs required by this section.

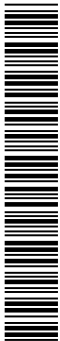
18 “(2) TRANSPORTATION IMPROVEMENTS LO-
19 CATED IN MULTIPLE MPOS.—If a transportation im-
20 provement, funded from the Highway Trust Fund or
21 authorized under chapter 53 of title 49, is located
22 within the boundaries of more than 1 metropolitan
23 planning area, the metropolitan planning organiza-
24 tions shall coordinate plans and TIPs regarding the
25 transportation improvement.



1 “(3) RELATIONSHIP WITH OTHER PLANNING
2 OFFICIALS.—The Secretary shall encourage each
3 metropolitan planning organization to consult with
4 officials responsible for other types of planning ac-
5 tivities that are affected by transportation in the
6 area (including State and local planned growth, eco-
7 nomic development, environmental protection, air-
8 port operations, and freight movements) or to co-
9 ordinate its planning process, to the maximum ex-
10 tent practicable, with such planning activities. Under
11 the metropolitan planning process, transportation
12 plans and TIPs shall be developed with due consid-
13 eration of other related planning activities within the
14 metropolitan area, and the process shall provide for
15 the design and delivery of transportation services
16 within the metropolitan area that are provided by—

17 “(A) recipients of assistance under chapter
18 53 of title 49;

19 “(B) governmental agencies and nonprofit
20 organizations (including representatives of the
21 agencies and organizations) that receive Federal
22 assistance from a source other than the Depart-
23 ment of Transportation to provide non-
24 emergency transportation services; and



1 “(C) recipients of assistance under section
2 204.

3 “(h) SCOPE OF PLANNING PROCESS.—

4 “(1) IN GENERAL.—The metropolitan planning
5 process for a metropolitan planning area under this
6 section shall provide for consideration of projects
7 and strategies that will—

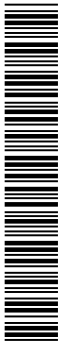
8 “(A) support the economic vitality of the
9 metropolitan area, especially by enabling global
10 competitiveness, productivity, and efficiency;

11 “(B) increase the safety of the transpor-
12 tation system for motorized and nonmotorized
13 users;

14 “(C) increase the security of the transpor-
15 tation system for motorized and nonmotorized
16 users;

17 “(D) increase the accessibility and mobility
18 of people and for freight;

19 “(E) protect and enhance the environment,
20 promote energy conservation, improve the qual-
21 ity of life, and promote consistency between
22 transportation improvements and State and
23 local planned growth and economic development
24 patterns;



1 “(F) enhance the integration and
2 connectivity of the transportation system,
3 across and between modes, for people and
4 freight;

5 “(G) promote efficient system management
6 and operation; and

7 “(H) emphasize the preservation of the ex-
8 isting transportation system.

9 “(2) FAILURE TO CONSIDER FACTORS.—The
10 failure to consider any factor specified in paragraph
11 (1) shall not be reviewable by any court under this
12 title or chapter 53 of title 49, subchapter II of chap-
13 ter 5 of title 5, or chapter 7 of title 5 in any matter
14 affecting a transportation plan, a TIP, a project or
15 strategy, or the certification of a planning process.

16 “(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

17 “(1) IN GENERAL.—Each metropolitan plan-
18 ning organization shall prepare and update a trans-
19 portation plan for its metropolitan planning area in
20 accordance with the requirements of this subsection.
21 The metropolitan planning organization shall pre-
22 pare and update such plan every 4 years (or more
23 frequently, if the metropolitan planning organization
24 elects to update more frequently) in the case of each
25 of the following:



1 “(A) Any area designated as nonattain-
2 ment, as defined in section 107(d) of the Clean
3 Air Act (42 U.S.C. 7407(d)).

4 “(B) Any area that was nonattainment
5 and subsequently designated to attainment in
6 accordance with section 107(d)(3) of that Act
7 (42 U.S.C. 7407(d)(3)) and that is subject to
8 a maintenance plan under section 175A of that
9 Act (42 U.S.C. 7505a).

10 In the case of any other area required to have a
11 transportation plan in accordance with the require-
12 ments of this subsection, the metropolitan planning
13 organization shall prepare and update such plan
14 every 5 years unless the metropolitan planning orga-
15 nization elects to update more frequently.

16 “(2) TRANSPORTATION PLAN.—A transpor-
17 tation plan under this section shall be in a form that
18 the Secretary determines to be appropriate and shall
19 contain, at a minimum, the following:

20 “(A) IDENTIFICATION OF TRANSPOR-
21 TATION FACILITIES.—An identification of trans-
22 portation facilities (including major roadways,
23 transit, multimodal and intermodal facilities,
24 and intermodal connectors) that should function
25 as an integrated metropolitan transportation



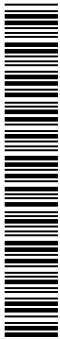
1 system, giving emphasis to those facilities that
2 serve important national and regional transpor-
3 tation functions. In formulating the transpor-
4 tation plan, the metropolitan planning organiza-
5 tion shall consider factors described in sub-
6 section (h) as such factors relate to a 20-year
7 forecast period.

8 “(B) MITIGATION ACTIVITIES.—

9 “(i) IN GENERAL.—A long-range
10 transportation plan shall include a discus-
11 sion of types of potential environmental
12 mitigation activities and potential areas to
13 carry out these activities, including activi-
14 ties that may have the greatest potential to
15 restore and maintain the environmental
16 functions affected by the plan.

17 “(ii) CONSULTATION.—The discussion
18 shall be developed in consultation with
19 Federal, State, and tribal wildlife, land
20 management, and regulatory agencies.

21 “(C) FINANCIAL PLAN.—A financial plan
22 that demonstrates how the adopted transpor-
23 tation plan can be implemented, indicates re-
24 sources from public and private sources that
25 are reasonably expected to be made available to



1 carry out the plan, and recommends any addi-
2 tional financing strategies for needed projects
3 and programs. The financial plan may include,
4 for illustrative purposes, additional projects
5 that would be included in the adopted transpor-
6 tation plan if reasonable additional resources
7 beyond those identified in the financial plan
8 were available. For the purpose of developing
9 the transportation plan, the metropolitan plan-
10 ning organization, transit operator, and State
11 shall cooperatively develop estimates of funds
12 that will be available to support plan implemen-
13 tation.

14 “(D) OPERATIONAL AND MANAGEMENT
15 STRATEGIES.—Operational and management
16 strategies to improve the performance of exist-
17 ing transportation facilities to relieve vehicular
18 congestion and maximize the safety and mobil-
19 ity of people and goods.

20 “(E) CAPITAL INVESTMENT AND OTHER
21 STRATEGIES.—Capital investment and other
22 strategies to preserve the existing and projected
23 future metropolitan transportation infrastruc-
24 ture and provide for multimodal capacity in-
25 creases based on regional priorities and needs.



1 “(F) TRANSPORTATION AND TRANSIT EN-
2 HANCEMENT ACTIVITIES.—Proposed transpor-
3 tation and transit enhancement activities.

4 “(3) COORDINATION WITH CLEAN AIR ACT
5 AGENCIES.—In metropolitan areas which are in non-
6 attainment for ozone or carbon monoxide under the
7 Clean Air Act, the metropolitan planning organiza-
8 tion shall coordinate the development of a transpor-
9 tation plan with the process for development of the
10 transportation control measures of the State imple-
11 mentation plan required by the Clean Air Act.

12 “(4) CONSULTATION.—

13 “(A) IN GENERAL.—In each metropolitan
14 area, the metropolitan planning organization
15 shall consult, as appropriate, with State and
16 local agencies responsible for land use manage-
17 ment, natural resources, environmental protec-
18 tion, conservation, and historic preservation
19 concerning the development of a long-range
20 transportation plan.

21 “(B) ISSUES.—The consultation shall in-
22 volve, as appropriate—

23 “(i) comparison of transportation
24 plans with State conservation plans or
25 maps, if available; or



1 “(ii) comparison of transportation
2 plans to inventories of natural or historic
3 resources, if available.

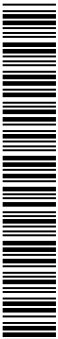
4 “(5) PARTICIPATION BY INTERESTED PAR-
5 TIES.—

6 “(A) IN GENERAL.—Each metropolitan
7 planning organization shall provide citizens, af-
8 fected public agencies, representatives of public
9 transportation employees, freight shippers, pro-
10 viders of freight transportation services, private
11 providers of transportation, representatives of
12 users of public transportation, representatives
13 of users of pedestrian walkways and bicycle
14 transportation facilities, representatives of the
15 disabled, and other interested parties with a
16 reasonable opportunity to comment on the
17 transportation plan.

18 “(B) CONTENTS OF PARTICIPATION
19 PLAN.—A participation plan—

20 “(i) shall be developed in consultation
21 with all interested parties; and

22 “(ii) shall provide that all interested
23 parties have reasonable opportunities to
24 comment on the contents of the transpor-
25 tation plan.



1 “(C) METHODS.—In carrying out subpara-
2 graph (A), the metropolitan planning organiza-
3 tion shall, to the maximum extent practicable—

4 “(i) hold any public meetings at con-
5 venient and accessible locations and times;

6 “(ii) employ visualization techniques
7 to describe plans; and

8 “(iii) make public information avail-
9 able in electronically accessible format and
10 means, such as the World Wide Web, as
11 appropriate to afford reasonable oppor-
12 tunity for consideration of public informa-
13 tion under subparagraph (A).

14 “(6) PUBLICATION.—A transportation plan in-
15 volving Federal participation shall be published or
16 otherwise made readily available by the metropolitan
17 planning organization for public review, including (to
18 the maximum extent practicable) in electronically ac-
19 cessible formats and means, such as the World Wide
20 Web, approved by the metropolitan planning organi-
21 zation and submitted for information purposes to
22 the Governor at such times and in such manner as
23 the Secretary shall establish.

24 “(7) SELECTION OF PROJECTS FROM ILLUS-
25 TRATIVE LIST.—Notwithstanding paragraph (2)(C),



1 a State or metropolitan planning organization shall
2 not be required to select any project from the illus-
3 trative list of additional projects included in the fi-
4 nancial plan under paragraph (2)(C).

5 “(j) METROPOLITAN TIP.—

6 “(1) DEVELOPMENT.—

7 “(A) IN GENERAL.—In cooperation with
8 the State and any affected public transportation
9 operator, the metropolitan planning organiza-
10 tion designated for a metropolitan area shall
11 develop a TIP for the area for which the orga-
12 nization is designated.

13 “(B) OPPORTUNITY FOR COMMENT.—In
14 developing the TIP, the metropolitan planning
15 organization, in cooperation with the State and
16 any affected public transportation operator,
17 shall provide an opportunity for participation by
18 interested parties in the development of the pro-
19 gram, in accordance with subsection (i)(5).

20 “(C) FUNDING ESTIMATES.—For the pur-
21 pose of developing the TIP, the metropolitan
22 planning organization, public transportation
23 agency, and State shall cooperatively develop
24 estimates of funds that are reasonably expected



1 to be available to support program implementa-
2 tion.

3 “(D) UPDATING AND APPROVAL.—The
4 TIP shall be updated at least once every 4
5 years and shall be approved by the metropolitan
6 planning organization and the Governor.

7 “(2) CONTENTS.—

8 “(A) PRIORITY LIST.—The TIP shall in-
9 clude a priority list of proposed federally sup-
10 ported projects and strategies to be carried out
11 within each 4-year period after the initial adop-
12 tion of the TIP.

13 “(B) FINANCIAL PLAN.—The TIP shall in-
14 clude a financial plan that—

15 “(i) demonstrates how the TIP can be
16 implemented;

17 “(ii) indicates resources from public
18 and private sources that are reasonably ex-
19 pected to be available to carry out the pro-
20 gram;

21 “(iii) identifies innovative financing
22 techniques to finance projects, programs,
23 and strategies; and

24 “(iv) may include, for illustrative pur-
25 poses, additional projects that would be in-



1 cluded in the approved TIP if reasonable
2 additional resources beyond those identi-
3 fied in the financial plan were available.

4 “(C) DESCRIPTIONS.—Each project in the
5 TIP shall include sufficient descriptive material
6 (such as type of work, termini, length, and
7 other similar factors) to identify the project or
8 phase of the project.

9 “(3) INCLUDED PROJECTS.—

10 “(A) PROJECTS UNDER THIS TITLE AND
11 CHAPTER 53 OF TITLE 49.—A TIP developed
12 under this subsection for a metropolitan area
13 shall include the projects within the area that
14 are proposed for funding under chapter 1 of
15 this title and chapter 53 of title 49.

16 “(B) PROJECTS UNDER CHAPTER 2.—

17 “(i) REGIONALLY SIGNIFICANT
18 PROJECTS.—Regionally significant projects
19 proposed for funding under chapter 2 shall
20 be identified individually in the transpor-
21 tation improvement program.

22 “(ii) OTHER PROJECTS.—Projects
23 proposed for funding under chapter 2 that
24 are not determined to be regionally signifi-
25 cant shall be grouped in 1 line item or



1 identified individually in the transportation
2 improvement program.

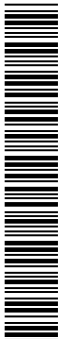
3 “(C) CONSISTENCY WITH LONG-RANGE
4 TRANSPORTATION PLAN.—Each project shall be
5 consistent with the long-range transportation
6 plan developed under subsection (i) for the
7 area.

8 “(D) REQUIREMENT OF ANTICIPATED
9 FULL FUNDING.—The program shall include a
10 project, or an identified phase of a project, only
11 if full funding can reasonably be anticipated to
12 be available for the project within the time pe-
13 riod contemplated for completion of the project.

14 “(4) NOTICE AND COMMENT.—Before approv-
15 ing a TIP, a metropolitan planning organization, in
16 cooperation with the State and any affected public
17 transportation operator, shall provide an opportunity
18 for participation by interested parties in the develop-
19 ment of the program, in accordance with subsection
20 (i)(5).

21 “(5) SELECTION OF PROJECTS.—

22 “(A) IN GENERAL.—Except as otherwise
23 provided in subsection (k)(4) and in addition to
24 the TIP development required under paragraph
25 (1), the selection of federally funded projects in



1 metropolitan areas shall be carried out, from
2 the approved TIP—

3 “(i) by—

4 “(I) in the case of projects under
5 this title, the State; and

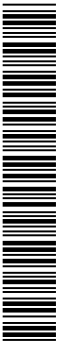
6 “(II) in the case of projects
7 under chapter 53 of title 49, the des-
8 ignated recipients of public transpor-
9 tation funding; and

10 “(ii) in cooperation with the metro-
11 politan planning organization.

12 “(B) MODIFICATIONS TO PROJECT PRI-
13 ORITY.—Notwithstanding any other provision of
14 law, action by the Secretary shall not be re-
15 quired to advance a project included in the ap-
16 proved TIP in place of another project in the
17 program.

18 “(6) SELECTION OF PROJECTS FROM ILLUS-
19 TRATIVE LIST.—

20 “(A) NO REQUIRED SELECTION.—Notwith-
21 standing paragraph (2)(B)(iv), a State or met-
22 ropolitan planning organization shall not be re-
23 quired to select any project from the illustrative
24 list of additional projects included in the finan-
25 cial plan under paragraph (2)(B)(iv).



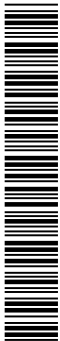
1 “(B) REQUIRED ACTION BY THE SEC-
2 RETARY.—Action by the Secretary shall be re-
3 quired for a State or metropolitan planning or-
4 ganization to select any project from the illus-
5 trative list of additional projects included in the
6 financial plan under paragraph (2)(B)(iv) for
7 inclusion in an approved TIP.

8 “(7) PUBLICATION.—

9 “(A) PUBLICATION OF TIPS.—A TIP in-
10 volving Federal participation shall be published
11 or otherwise made readily available by the met-
12 ropolitan planning organization for public re-
13 view.

14 “(B) PUBLICATION OF ANNUAL LISTINGS
15 OF PROJECTS.—An annual listing of projects,
16 including investments in pedestrian walkways
17 and bicycle transportation facilities, for which
18 Federal funds have been obligated in the pre-
19 ceding year shall be published or otherwise
20 made available by the cooperative effort of the
21 State, transit operator, and metropolitan plan-
22 ning organization for public review. The listing
23 shall be consistent with the categories identified
24 in the TIP.

25 “(k) TRANSPORTATION MANAGEMENT AREAS.—



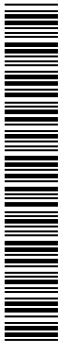
1 “(1) IDENTIFICATION AND DESIGNATION.—

2 “(A) REQUIRED IDENTIFICATION.—The
3 Secretary shall identify as a transportation
4 management area each urbanized area (as de-
5 fined by the Bureau of the Census) with a pop-
6 ulation of over 200,000 individuals.

7 “(B) DESIGNATIONS ON REQUEST.—The
8 Secretary shall designate any additional area as
9 a transportation management area on the re-
10 quest of the Governor and the metropolitan
11 planning organization designated for the area.

12 “(2) TRANSPORTATION PLANS.—In a metropoli-
13 tan planning area serving a transportation manage-
14 ment area, transportation plans shall be based on a
15 continuing and comprehensive transportation plan-
16 ning process carried out by the metropolitan plan-
17 ning organization in cooperation with the State and
18 public transportation operators.

19 “(3) CONGESTION MANAGEMENT PROCESS.—
20 Within a metropolitan planning area serving a trans-
21 portation management area, the transportation plan-
22 ning process under this section shall address conges-
23 tion management through a process that provides
24 for effective management and operation, based on a
25 cooperatively developed and implemented metropoli-



1 tan-wide strategy, of new and existing transportation
2 facilities eligible for funding under this title and
3 chapter 53 of title 49 through the use of travel de-
4 mand reduction and operational management strate-
5 gies. The Secretary shall establish an appropriate
6 phase-in schedule for compliance with the require-
7 ments of this section but no sooner than 1 year after
8 the identification of a transportation management
9 area.

10 “(4) SELECTION OF PROJECTS.—

11 “(A) IN GENERAL.—All federally funded
12 projects carried out within the boundaries of a
13 metropolitan planning area serving a transpor-
14 tation management area under this title (ex-
15 cluding projects carried out on the National
16 Highway System and projects carried out under
17 the bridge program or the Interstate mainte-
18 nance program) or under chapter 53 of title 49
19 shall be selected for implementation from the
20 approved TIP by the metropolitan planning or-
21 ganization designated for the area in consulta-
22 tion with the State and any affected public
23 transportation operator.

24 “(B) NATIONAL HIGHWAY SYSTEM
25 PROJECTS.—Projects carried out within the



1 boundaries of a metropolitan planning area
2 serving a transportation management area on
3 the National Highway System and projects car-
4 ried out within such boundaries under the
5 bridge program or the Interstate maintenance
6 program under this title shall be selected for
7 implementation from the approved TIP by the
8 State in cooperation with the metropolitan plan-
9 ning organization designated for the area.

10 “(5) CERTIFICATION.—

11 “(A) IN GENERAL.—The Secretary shall—

12 “(i) ensure that the metropolitan
13 planning process of a metropolitan plan-
14 ning organization serving a transportation
15 management area is being carried out in
16 accordance with applicable provisions of
17 Federal law; and

18 “(ii) subject to subparagraph (B), cer-
19 tify, not less often than once every 4 years,
20 that the requirements of this paragraph
21 are met with respect to the metropolitan
22 planning process.

23 “(B) REQUIREMENTS FOR CERTIFI-
24 CATION.—The Secretary may make the certifi-
25 cation under subparagraph (A) if—



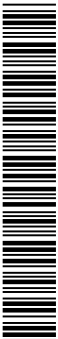
1 “(i) the transportation planning proc-
2 ess complies with the requirements of this
3 section and other applicable requirements
4 of Federal law; and

5 “(ii) there is a TIP for the metropoli-
6 tan planning area that has been approved
7 by the metropolitan planning organization
8 and the Governor.

9 “(C) EFFECT OF FAILURE TO CERTIFY.—

10 “(i) WITHHOLDING OF PROJECT
11 FUNDS.—If a metropolitan planning proc-
12 ess of a metropolitan planning organization
13 serving a transportation management area
14 is not certified, the Secretary may withhold
15 up to 20 percent of the funds attributable
16 to the metropolitan planning area of the
17 metropolitan planning organization for
18 projects funded under this title and chap-
19 ter 53 of title 49.

20 “(ii) RESTORATION OF WITHHELD
21 FUNDS.—The withheld funds shall be re-
22 stored to the metropolitan planning area at
23 such time as the metropolitan planning
24 process is certified by the Secretary.



1 “(D) REVIEW OF CERTIFICATION.—In
2 making certification determinations under this
3 paragraph, the Secretary shall provide for pub-
4 lic involvement appropriate to the metropolitan
5 area under review.

6 “(1) ABBREVIATED PLANS FOR CERTAIN AREAS.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 in the case of a metropolitan area not designated as
9 a transportation management area under this sec-
10 tion, the Secretary may provide for the development
11 of an abbreviated transportation plan and TIP for
12 the metropolitan planning area that the Secretary
13 determines is appropriate to achieve the purposes of
14 this section, taking into account the complexity of
15 transportation problems in the area.

16 “(2) NONATTAINMENT AREAS.—The Secretary
17 may not permit abbreviated plans or TIPs for a
18 metropolitan area that is in nonattainment for ozone
19 or carbon monoxide under the Clean Air Act.

20 “(m) ADDITIONAL REQUIREMENTS FOR CERTAIN
21 NONATTAINMENT AREAS.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provisions of this title or chapter 53 of title 49, for
24 transportation management areas classified as non-
25 attainment for ozone or carbon monoxide pursuant



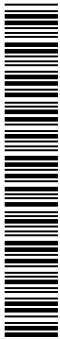
1 to the Clean Air Act, Federal funds may not be ad-
2 vanced in such area for any highway project that
3 will result in a significant increase in the carrying
4 capacity for single-occupant vehicles unless the
5 project is addressed through a congestion manage-
6 ment process.

7 “(2) APPLICABILITY.—This subsection applies
8 to a nonattainment area within the metropolitan
9 planning area boundaries determined under sub-
10 section (e).

11 “(n) LIMITATION ON STATUTORY CONSTRUCTION.—
12 Nothing in this section shall be construed to confer on
13 a metropolitan planning organization the authority to im-
14 pose legal requirements on any transportation facility,
15 provider, or project not eligible under this title or chapter
16 53 of title 49.

17 “(o) FUNDING.—Funds set aside under section
18 104(f) of this title or section 5305(g) of title 49 shall be
19 available to carry out this section.

20 “(p) CONTINUATION OF CURRENT REVIEW PRAC-
21 TICE.—Since plans and TIPs described in this section are
22 subject to a reasonable opportunity for public comment,
23 since individual projects included in plans and TIPs are
24 subject to review under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions



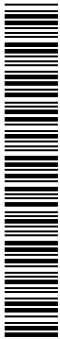
1 by the Secretary concerning plans and TIPs described in
2 this section have not been reviewed under such Act as of
3 January 1, 1997, any decision by the Secretary concerning
4 a plan or TIP described in this section shall not be consid-
5 ered to be a Federal action subject to review under such
6 Act.

7 **“§ 135. Statewide transportation planning**

8 “(a) GENERAL REQUIREMENTS.—

9 “(1) DEVELOPMENT OF PLANS AND PRO-
10 GRAMS.—To accomplish the objectives stated in sec-
11 tion 134(a), each State shall develop a statewide
12 transportation plan and a statewide transportation
13 improvement program for all areas of the State, sub-
14 ject to section 134.

15 “(2) CONTENTS.—The statewide transportation
16 plan and the transportation improvement program
17 developed for each State shall provide for the devel-
18 opment and integrated management and operation
19 of transportation systems and facilities (including
20 accessible pedestrian walkways and bicycle transpor-
21 tation facilities) that will function as an intermodal
22 transportation system for the State and an integral
23 part of an intermodal transportation system for the
24 United States.



1 “(3) PROCESS OF DEVELOPMENT.—The process
2 for developing the statewide plan and the transpor-
3 tation improvement program shall provide for con-
4 sideration of all modes of transportation and the
5 policies stated in section 134(a), and shall be con-
6 tinuing, cooperative, and comprehensive to the de-
7 gree appropriate, based on the complexity of the
8 transportation problems to be addressed.

9 “(b) COORDINATION WITH METROPOLITAN PLAN-
10 NING; STATE IMPLEMENTATION PLAN.—A State shall—

11 “(1) coordinate planning carried out under this
12 section with the transportation planning activities
13 carried out under section 134 for metropolitan areas
14 of the State and with statewide trade and economic
15 development planning activities and related
16 multistate planning efforts; and

17 “(2) develop the transportation portion of the
18 State implementation plan as required by the Clean
19 Air Act (42 U.S.C. 7401 et seq.).

20 “(c) INTERSTATE AGREEMENTS.—

21 “(1) IN GENERAL.—The consent of Congress is
22 granted to 2 or more States entering into agree-
23 ments or compacts, not in conflict with any law of
24 the United States, for cooperative efforts and mu-
25 tual assistance in support of activities authorized



1 under this section related to interstate areas and lo-
2 calities in the States and establishing authorities the
3 States consider desirable for making the agreements
4 and compacts effective.

5 “(2) RESERVATION OF RIGHTS.—The right to
6 alter, amend, or repeal interstate compacts entered
7 into under this subsection is expressly reserved.

8 “(d) SCOPE OF PLANNING PROCESS.—

9 “(1) IN GENERAL.—Each State shall carry out
10 a statewide transportation planning process that
11 provides for consideration and implementation of
12 projects, strategies, and services that will—

13 “(A) support the economic vitality of the
14 United States, the States, nonmetropolitan
15 areas, and metropolitan areas, especially by en-
16 abling global competitiveness, productivity, and
17 efficiency;

18 “(B) increase the safety of the transpor-
19 tation system for motorized and nonmotorized
20 users;

21 “(C) increase the security of the transpor-
22 tation system for motorized and nonmotorized
23 users;

24 “(D) increase the accessibility and mobility
25 of people and freight;



1 “(E) protect and enhance the environment,
2 promote energy conservation, improve the qual-
3 ity of life, and promote consistency between
4 transportation improvements and State and
5 local planned growth and economic development
6 patterns;

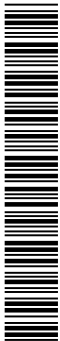
7 “(F) enhance the integration and
8 connectivity of the transportation system,
9 across and between modes throughout the
10 State, for people and freight;

11 “(G) promote efficient system management
12 and operation; and

13 “(H) emphasize the preservation of the ex-
14 isting transportation system.

15 “(2) FAILURE TO CONSIDER FACTORS.—The
16 failure to consider any factor specified in paragraph
17 (1) shall not be reviewable by any court under this
18 title or chapter 53 of title 49, subchapter II of chap-
19 ter 5 of title 5, or chapter 7 of title 5 in any matter
20 affecting a statewide transportation plan, the trans-
21 portation improvement program, a project or strat-
22 egy, or the certification of a planning process.

23 “(e) ADDITIONAL REQUIREMENTS.—In carrying out
24 planning under this section, each State shall consider, at
25 a minimum—



1 “(1) with respect to nonmetropolitan areas, the
2 concerns of affected local officials with responsibility
3 for transportation;

4 “(2) the concerns of Indian tribal governments
5 and Federal land management agencies that have
6 jurisdiction over land within the boundaries of the
7 State; and

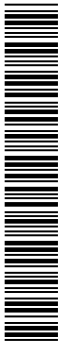
8 “(3) coordination of transportation plans, the
9 transportation improvement program, and planning
10 activities with related planning activities being car-
11 ried out outside of metropolitan planning areas and
12 between States.

13 “(f) LONG-RANGE STATEWIDE TRANSPORTATION
14 PLAN.—

15 “(1) DEVELOPMENT.—Each State shall develop
16 a long-range statewide transportation plan, with a
17 minimum 20-year forecast period for all areas of the
18 State, that provides for the development and imple-
19 mentation of the intermodal transportation system
20 of the State.

21 “(2) CONSULTATION WITH GOVERNMENTS.—

22 “(A) METROPOLITAN AREAS.—The state-
23 wide transportation plan shall be developed for
24 each metropolitan area in the State in coopera-
25 tion with the metropolitan planning organiza-



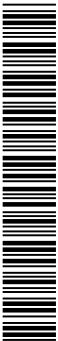
1 tion designated for the metropolitan area under
2 section 134.

3 “(B) NONMETROPOLITAN AREAS.—With
4 respect to nonmetropolitan areas, the statewide
5 transportation plan shall be developed in con-
6 sultation with affected nonmetropolitan officials
7 with responsibility for transportation. The Sec-
8 retary shall not review or approve the consulta-
9 tion process in each State.

10 “(C) INDIAN TRIBAL AREAS.—With respect
11 to each area of the State under the jurisdiction
12 of an Indian tribal government, the statewide
13 transportation plan shall be developed in con-
14 sultation with the tribal government and the
15 Secretary of the Interior.

16 “(D) CONSULTATION, COMPARISON, AND
17 CONSIDERATION.—

18 “(i) IN GENERAL.—The long-range
19 transportation plan shall be developed, as
20 appropriate, in consultation with State,
21 tribal, and local agencies responsible for
22 land use management, natural resources,
23 environmental protection, conservation,
24 and historic preservation.

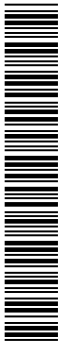


1 “(ii) COMPARISON AND CONSIDER-
2 ATION.—Consultation under clause (i)
3 shall involve comparison of transportation
4 plans to State and tribal conservation
5 plans or maps, if available, and comparison
6 of transportation plans to inventories of
7 natural or historic resources, if available.

8 “(3) PARTICIPATION BY INTERESTED PAR-
9 TIES.—

10 “(A) IN GENERAL.—In developing the
11 statewide transportation plan, the State shall
12 provide citizens, affected public agencies, rep-
13 resentatives of public transportation employees,
14 freight shippers, private providers of transpor-
15 tation, representatives of users of public trans-
16 portation, representatives of users of pedestrian
17 walkways and bicycle transportation facilities,
18 representatives of the disabled, providers of
19 freight transportation services, and other inter-
20 ested parties with a reasonable opportunity to
21 comment on the proposed plan.

22 “(B) METHODS.—In carrying out subpara-
23 graph (A), the State shall, to the maximum ex-
24 tent practicable—



1 “(i) hold any public meetings at con-
2 venient and accessible locations and times;

3 “(ii) employ visualization techniques
4 to describe plans; and

5 “(iii) make public information avail-
6 able in electronically accessible format and
7 means, such as the World Wide Web, as
8 appropriate to afford reasonable oppor-
9 tunity for consideration of public informa-
10 tion under subparagraph (A).

11 “(4) MITIGATION ACTIVITIES.—

12 “(A) IN GENERAL.—A long-range trans-
13 portation plan shall include a discussion of po-
14 tential environmental mitigation activities and
15 potential areas to carry out these activities, in-
16 cluding activities that may have the greatest po-
17 tential to restore and maintain the environ-
18 mental functions affected by the plan.

19 “(B) CONSULTATION.—The discussion
20 shall be developed in consultation with Federal,
21 State, and tribal wildlife, land management,
22 and regulatory agencies.

23 “(5) FINANCIAL PLAN.—The statewide trans-
24 portation plan may include a financial plan that
25 demonstrates how the adopted statewide transpor-

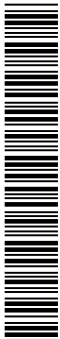


1 tation plan can be implemented, indicates resources
2 from public and private sources that are reasonably
3 expected to be made available to carry out the plan,
4 and recommends any additional financing strategies
5 for needed projects and programs. The financial
6 plan may include, for illustrative purposes, addi-
7 tional projects that would be included in the adopted
8 statewide transportation plan if reasonable addi-
9 tional resources beyond those identified in the finan-
10 cial plan were available.

11 “(6) SELECTION OF PROJECTS FROM ILLUS-
12 TRATIVE LIST.—A State shall not be required to se-
13 lect any project from the illustrative list of addi-
14 tional projects included in the financial plan de-
15 scribed in paragraph (5).

16 “(7) EXISTING SYSTEM.—The statewide trans-
17 portation plan should include capital, operations and
18 management strategies, investments, procedures,
19 and other measures to ensure the preservation and
20 most efficient use of the existing transportation sys-
21 tem.

22 “(8) PUBLICATION OF LONG-RANGE TRANSPOR-
23 TATION PLANS.—Each long-range transportation
24 plan prepared by a State shall be published or other-
25 wise made available, including (to the maximum ex-



1 tent practicable) in electronically accessible formats
2 and means, such as the World Wide Web.

3 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
4 PROGRAM.—

5 “(1) DEVELOPMENT.—Each State shall develop
6 a statewide transportation improvement program for
7 all areas of the State. Such program shall cover a
8 period of 4 years and be updated every 4 years or
9 more frequently if the Governor elects to update
10 more frequently.

11 “(2) CONSULTATION WITH GOVERNMENTS.—

12 “(A) METROPOLITAN AREAS.—With re-
13 spect to each metropolitan area in the State,
14 the program shall be developed in cooperation
15 with the metropolitan planning organization
16 designated for the metropolitan area under sec-
17 tion 134.

18 “(B) NONMETROPOLITAN AREAS.—With
19 respect to each nonmetropolitan area in the
20 State, the program shall be developed in con-
21 sultation with affected nonmetropolitan local of-
22 ficials with responsibility for transportation.
23 The Secretary shall not review or approve the
24 specific consultation process in the State.



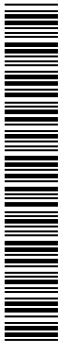
1 “(C) INDIAN TRIBAL AREAS.—With respect
2 to each area of the State under the jurisdiction
3 of an Indian tribal government, the program
4 shall be developed in consultation with the trib-
5 al government and the Secretary of the Interior.

6 “(3) PARTICIPATION BY INTERESTED PAR-
7 TIES.—In developing the program, the State shall
8 provide citizens, affected public agencies, representa-
9 tives of public transportation employees, freight
10 shippers, private providers of transportation, pro-
11 viders of freight transportation services, representa-
12 tives of users of public transportation, representa-
13 tives of users of pedestrian walkways and bicycle
14 transportation facilities, representatives of the dis-
15 abled, and other interested parties with a reasonable
16 opportunity to comment on the proposed program.

17 “(4) INCLUDED PROJECTS.—

18 “(A) IN GENERAL.—A transportation im-
19 provement program developed under this sub-
20 section for a State shall include federally sup-
21 ported surface transportation expenditures
22 within the boundaries of the State.

23 “(B) LISTING OF PROJECTS.—An annual
24 listing of projects for which funds have been ob-
25 ligated in the preceding year in each metropoli-



1 tan planning area shall be published or other-
2 wise made available by the cooperative effort of
3 the State, transit operator, and the metropoli-
4 tan planning organization for public review.
5 The listing shall be consistent with the funding
6 categories identified in each metropolitan trans-
7 portation improvement program.

8 “(C) PROJECTS UNDER CHAPTER 2.—

9 “(i) REGIONALLY SIGNIFICANT
10 PROJECTS.—Regionally significant projects
11 proposed for funding under chapter 2 shall
12 be identified individually in the transpor-
13 tation improvement program.

14 “(ii) OTHER PROJECTS.—Projects
15 proposed for funding under chapter 2 that
16 are not determined to be regionally signifi-
17 cant shall be grouped in 1 line item or
18 identified individually in the transportation
19 improvement program.

20 “(D) CONSISTENCY WITH STATEWIDE
21 TRANSPORTATION PLAN.—Each project shall
22 be—

23 “(i) consistent with the statewide
24 transportation plan developed under this
25 section for the State;



1 “(ii) identical to the project or phase
2 of the project as described in an approved
3 metropolitan transportation plan; and

4 “(iii) in conformance with the applica-
5 ble State air quality implementation plan
6 developed under the Clean Air Act, if the
7 project is carried out in an area designated
8 as nonattainment for ozone, particulate
9 matter, or carbon monoxide under such
10 Act.

11 “(E) REQUIREMENT OF ANTICIPATED
12 FULL FUNDING.—The transportation improve-
13 ment program shall include a project, or an
14 identified phase of a project, only if full funding
15 can reasonably be anticipated to be available for
16 the project within the time period contemplated
17 for completion of the project.

18 “(F) FINANCIAL PLAN.—The transpor-
19 tation improvement program may include a fi-
20 nancial plan that demonstrates how the ap-
21 proved transportation improvement program
22 can be implemented, indicates resources from
23 public and private sources that are reasonably
24 expected to be made available to carry out the
25 transportation improvement program, and rec-



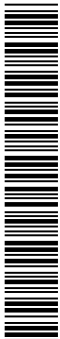
ommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

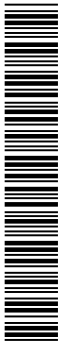
“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

“(H) PRIORITIES.—The transportation improvement program shall reflect the priorities



1 for programming and expenditures of funds, in-
2 cluding transportation enhancement activities,
3 required by this title and chapter 53 of title 49.

4 “(5) PROJECT SELECTION FOR AREAS OF LESS
5 THAN 50,000 POPULATION.—Projects carried out in
6 areas with populations of less than 50,000 individ-
7 uals shall be selected, from the approved transpor-
8 tation improvement program (excluding projects car-
9 ried out on the National Highway System and
10 projects carried out under the bridge program or the
11 Interstate maintenance program under this title or
12 under sections 5310, 5311, 5316, and 5317 of title
13 49), by the State in cooperation with the affected
14 nonmetropolitan local officials with responsibility for
15 transportation. Projects carried out in areas with
16 populations of less than 50,000 individuals on the
17 National Highway System or under the bridge pro-
18 gram or the Interstate maintenance program under
19 this title or under sections 5310, 5311, 5316, and
20 5317 of title 49 shall be selected, from the approved
21 statewide transportation improvement program, by
22 the State in consultation with the affected nonmetro-
23 politan local officials with responsibility for transpor-
24 tation.



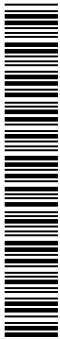
1 “(6) TRANSPORTATION IMPROVEMENT PRO-
2 GRAM APPROVAL.—Every 4 years, a transportation
3 improvement program developed under this sub-
4 section shall be reviewed and approved by the Sec-
5 retary if based on a current planning finding.

6 “(7) PLANNING FINDING.—A finding shall be
7 made by the Secretary at least every 4 years that
8 the transportation planning process through which
9 statewide transportation plans and programs are de-
10 veloped is consistent with this section and section
11 134.

12 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
13 Notwithstanding any other provision of law, action
14 by the Secretary shall not be required to advance a
15 project included in the approved transportation im-
16 provement program in place of another project in
17 the program.

18 “(h) FUNDING.—Funds set aside pursuant to section
19 104(f) of this title and section 5305(g) of title 49, shall
20 be available to carry out this section.

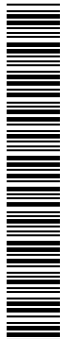
21 “(i) TREATMENT OF CERTAIN STATE LAWS AS CON-
22 GESTION MANAGEMENT PROCESSES.—For purposes of
23 this section and section 134, and sections 5303 and 5304
24 of title 49, State laws, rules, or regulations pertaining to
25 congestion management systems or programs may con-



1 stitute the congestion management process under this sec-
2 tion and section 134, and sections 5303 and 5304 of title
3 49, if the Secretary finds that the State laws, rules, or
4 regulations are consistent with, and fulfill the intent of,
5 the purposes of this section and section 134 and sections
6 5303 and 5304 of title 49, as appropriate.

7 “(j) CONTINUATION OF CURRENT REVIEW PRAC-
8 TICE.—Since the statewide transportation plan and the
9 transportation improvement program described in this sec-
10 tion are subject to a reasonable opportunity for public
11 comment, since individual projects included in the state-
12 wide transportation plans and the transportation improve-
13 ment program are subject to review under the National
14 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.), and since decisions by the Secretary concerning
16 statewide transportation plans or the transportation im-
17 provement program described in this section have not been
18 reviewed under such Act as of January 1, 1997, any deci-
19 sion by the Secretary concerning a metropolitan or state-
20 wide transportation plan or the transportation improve-
21 ment program described in this section shall not be consid-
22 ered to be a Federal action subject to review under such
23 Act.”.

24 (b) SCHEDULE FOR IMPLEMENTATION.—The Sec-
25 retary shall issue guidance on a schedule for implementa-



tion of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the items relating to sections 134 and 135 and inserting the following:

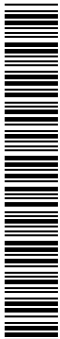
“134. Metropolitan transportation planning.
“135. Statewide transportation planning.”.

**SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR
PROJECT DECISIONMAKING.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

**“§ 139. Efficient environmental reviews for project
decisionmaking**

“(a) DEFINITIONS.—In this section, the following definitions apply:



1 “(1) AGENCY.—The term ‘agency’ means any
2 agency, department, or other unit of Federal, State,
3 local, or Indian tribal government.

4 “(2) ENVIRONMENTAL IMPACT STATEMENT.—
5 The term ‘environmental impact statement’ means
6 the detailed statement of environmental impacts re-
7 quired to be prepared under the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

9 “(3) ENVIRONMENTAL REVIEW PROCESS.—

10 “(A) IN GENERAL.—The term ‘environ-
11 mental review process’ means the process for
12 preparing for a project an environmental impact
13 statement, environmental assessment, categor-
14 ical exclusion, or other document prepared
15 under the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.).

17 “(B) INCLUSIONS.—The term ‘environ-
18 mental review process’ includes the process for
19 and completion of any environmental permit,
20 approval, review, or study required for a project
21 under any Federal law other than the National
22 Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.).

24 “(4) LEAD AGENCY.—The term ‘lead agency’
25 means the Department of Transportation and, if ap-



1 plicable, any State or local governmental entity serv-
2 ing as a joint lead agency pursuant to this section.

3 “(5) MULTIMODAL PROJECT.—The term
4 ‘multimodal project’ means a project funded, in
5 whole or in part, under this title or chapter 53 of
6 title 49 and involving the participation of more than
7 one Department of Transportation administration or
8 agency.

9 “(6) PROJECT.—The term ‘project’ means any
10 highway project, public transportation capital
11 project, or multimodal project that requires the ap-
12 proval of the Secretary.

13 “(7) PROJECT SPONSOR.—The term ‘project
14 sponsor’ means the agency or other entity, including
15 any private or public-private entity, that seeks ap-
16 proval of the Secretary for a project.

17 “(8) STATE TRANSPORTATION DEPARTMENT.—
18 The term ‘State transportation department’ means
19 any statewide agency of a State with responsibility
20 for one or more modes of transportation.

21 “(b) APPLICABILITY.—

22 “(1) IN GENERAL.—The project development
23 procedures in this section are applicable to all
24 projects for which an environmental impact state-
25 ment is prepared under the National Environmental



1 Policy Act of 1969 and may be applied, to the extent
2 determined appropriate by the Secretary, to other
3 projects for which an environmental document is
4 prepared pursuant to such Act.

5 “(2) FLEXIBILITY.—Any authorities granted in
6 this section may be exercised for a project, class of
7 projects, or program of projects.

8 “(c) LEAD AGENCIES.—

9 “(1) FEDERAL LEAD AGENCY.—The Depart-
10 ment of Transportation shall be the Federal lead
11 agency in the environmental review process for a
12 project.

13 “(2) JOINT LEAD AGENCIES.—Nothing in this
14 section precludes another agency from being a joint
15 lead agency in accordance with regulations under the
16 National Environmental Policy Act of 1969.

17 “(3) PROJECT SPONSOR AS JOINT LEAD AGEN-
18 CY.—Any project sponsor that is a State or local
19 governmental entity receiving funds under this title
20 or chapter 53 of title 49 for the project shall serve
21 as a joint lead agency with the Department for pur-
22 poses of preparing any environmental document
23 under the National Environmental Policy Act of
24 1969 and may prepare any such environmental doc-
25 ument required in support of any action or approval

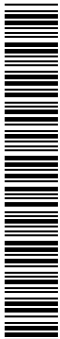


1 by the Secretary if the Federal lead agency furnishes
2 guidance in such preparation and independently
3 evaluates such document and the document is ap-
4 proved and adopted by the Secretary prior to the
5 Secretary taking any subsequent action or making
6 any approval based on such document, whether or
7 not the Secretary's action or approval results in
8 Federal funding.

9 “(4) ENSURING COMPLIANCE.—The Secretary
10 shall ensure that the project sponsor complies with
11 all design and mitigation commitments made jointly
12 by the Secretary and the project sponsor in any en-
13 vironmental document prepared by the project spon-
14 sor in accordance with this subsection and that such
15 document is appropriately supplemented if project
16 changes become necessary.

17 “(5) ADOPTION AND USE OF DOCUMENTS.—
18 Any environmental document prepared in accordance
19 with this subsection may be adopted or used by any
20 Federal agency making any approval to the same ex-
21 tent that such Federal agency could adopt or use a
22 document prepared by another Federal agency.

23 “(6) ROLES AND RESPONSIBILITY OF LEAD
24 AGENCY.—With respect to the environmental review



1 process for any project, the lead agency shall have
2 authority and responsibility—

3 “(A) to take such actions as are necessary
4 and proper, within the authority of the lead
5 agency, to facilitate the expeditious resolution
6 of the environmental review process for the
7 project; and

8 “(B) to prepare or ensure that any re-
9 quired environmental impact statement or other
10 document required to be completed under the
11 National Environmental Policy Act of 1969 is
12 completed in accordance with this section and
13 applicable Federal law.

14 “(d) PARTICIPATING AGENCIES.—

15 “(1) IN GENERAL.—The lead agency shall be
16 responsible for inviting and designating participating
17 agencies in accordance with this subsection.

18 “(2) INVITATION.—The lead agency shall iden-
19 tify, as early as practicable in the environmental re-
20 view process for a project, any other Federal and
21 non-Federal agencies that may have an interest in
22 the project, and shall invite such agencies to become
23 participating agencies in the environmental review
24 process for the project. The invitation shall set a



1 deadline for responses to be submitted. The deadline
2 may be extended by the lead agency for good cause.

3 “(3) FEDERAL PARTICIPATING AGENCIES.—Any
4 Federal agency that is invited by the lead agency to
5 participate in the environmental review process for a
6 project shall be designated as a participating agency
7 by the lead agency unless the invited agency informs
8 the lead agency, in writing, by the deadline specified
9 in the invitation that the invited agency—

10 “(A) has no jurisdiction or authority with
11 respect to the project;

12 “(B) has no expertise or information rel-
13 evant to the project; and

14 “(C) does not intend to submit comments
15 on the project.

16 “(4) EFFECT OF DESIGNATION.—Designation
17 as a participating agency under this subsection shall
18 not imply that the participating agency—

19 “(A) supports a proposed project; or

20 “(B) has any jurisdiction over, or special
21 expertise with respect to evaluation of, the
22 project.

23 “(5) COOPERATING AGENCY.—A participating
24 agency may also be designated by a lead agency as
25 a ‘cooperating agency’ under the regulations con-



1 tained in part 1500 of title 40, Code of Federal Reg-
2 ulations.

3 “(6) DESIGNATIONS FOR CATEGORIES OF
4 PROJECTS.—The Secretary may exercise the authori-
5 ties granted under this subsection for a project,
6 class of projects, or program of projects.

7 “(7) CONCURRENT REVIEWS.—Each Federal
8 agency shall, to the maximum extent practicable—

9 “(A) carry out obligations of the Federal
10 agency under other applicable law concurrently,
11 and in conjunction, with the review required
12 under the National Environmental Policy Act of
13 1969 (42 U.S.C. 4321 et seq.), unless doing so
14 would impair the ability of the Federal agency
15 to carry out those obligations; and

16 “(B) formulate and implement administra-
17 tive, policy, and procedural mechanisms to en-
18 able the agency to ensure completion of the en-
19 vironmental review process in a timely, coordi-
20 nated, and environmentally responsible manner.

21 “(e) PROJECT INITIATION.—The project sponsor
22 shall notify the Secretary of the type of work, termini,
23 length and general location of the proposed project, to-
24 gether with a statement of any Federal approvals antici-
25 pated to be necessary for the proposed project, for the pur-



1 pose of informing the Secretary that the environmental re-
2 view process should be initiated.

3 “(f) PURPOSE AND NEED.—

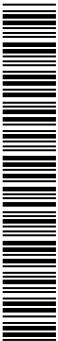
4 “(1) PARTICIPATION.—As early as practicable
5 during the environmental review process, the lead
6 agency shall provide an opportunity for involvement
7 by participating agencies and the public in defining
8 the purpose and need for a project.

9 “(2) DEFINITION.—Following participation
10 under paragraph (1), the lead agency shall define
11 the project’s purpose and need for purposes of any
12 document which the lead agency is responsible for
13 preparing for the project.

14 “(3) OBJECTIVES.—The statement of purpose
15 and need shall include a clear statement of the ob-
16 jectives that the proposed action is intended to
17 achieve, which may include—

18 “(A) achieving a transportation objective
19 identified in an applicable statewide or metro-
20 politan transportation plan;

21 “(B) supporting land use, economic devel-
22 opment, or growth objectives established in ap-
23 plicable Federal, State, local, or tribal plans;
24 and



1 “(C) serving national defense, national se-
2 curity, or other national objectives, as estab-
3 lished in Federal laws, plans, or policies.

4 “(4) ALTERNATIVES ANALYSIS.—

5 “(A) PARTICIPATION.—As early as prac-
6 ticable during the environmental review process,
7 the lead agency shall provide an opportunity for
8 involvement by participating agencies and the
9 public in determining the range of alternatives
10 to be considered for a project.

11 “(B) RANGE OF ALTERNATIVES.—Fol-
12 lowing participation under paragraph (1), the
13 lead agency shall determine the range of alter-
14 natives for consideration in any document which
15 the lead agency is responsible for preparing for
16 the project.

17 “(C) METHODOLOGIES.—The lead agency
18 also shall determine, in collaboration with par-
19 ticipating agencies at appropriate times during
20 the study process, the methodologies to be used
21 and the level of detail required in the analysis
22 of each alternative for a project.

23 “(D) PREFERRED ALTERNATIVE.—At the
24 discretion of the lead agency, the preferred al-
25 ternative for a project, after being identified,



1 may be developed to a higher level of detail
2 than other alternatives in order to facilitate the
3 development of mitigation measures or concu-
4 rent compliance with other applicable laws if
5 the lead agency determines that the develop-
6 ment of such higher level of detail will not pre-
7 vent the lead agency from making an impartial
8 decision as to whether to accept another alter-
9 native which is being considered in the environ-
10 mental review process.

11 “(g) COORDINATION AND SCHEDULING.—

12 “(1) COORDINATION PLAN.—

13 “(A) IN GENERAL.—The lead agency shall
14 establish a plan for coordinating public and
15 agency participation in and comment on the en-
16 vironmental review process for a project or cat-
17 egory of projects. The coordination plan may be
18 incorporated into a memorandum of under-
19 standing.

20 “(B) SCHEDULE.—

21 “(i) IN GENERAL.—The lead agency
22 may establish as part of the coordination
23 plan, after consultation with each partici-
24 pating agency for the project and with the
25 State in which the project is located (and,



1 if the State is not the project sponsor, with
2 the project sponsor), a schedule for com-
3 pletion of the environmental review process
4 for the project.

5 “(ii) FACTORS FOR CONSIDER-
6 ATION.—In establishing the schedule, the
7 lead agency shall consider factors such
8 as—

9 “(I) the responsibilities of par-
10 ticipating agencies under applicable
11 laws;

12 “(II) resources available to the
13 cooperating agencies;

14 “(III) overall size and complexity
15 of the project;

16 “(IV) the overall schedule for
17 and cost of the project; and

18 “(V) the sensitivity of the natural
19 and historic resources that could be
20 affected by the project.

21 “(C) CONSISTENCY WITH OTHER TIME PE-
22 RIODS.—A schedule under subparagraph (B)
23 shall be consistent with any other relevant time
24 periods established under Federal law.



1 “(D) MODIFICATION.—The lead agency
2 may—

3 “(i) lengthen a schedule established
4 under subparagraph (B) for good cause;
5 and

6 “(ii) shorten a schedule only with the
7 concurrence of the affected cooperating
8 agencies.

9 “(E) DISSEMINATION.—A copy of a sched-
10 ule under subparagraph (B), and of any modi-
11 fications to the schedule, shall be—

12 “(i) provided to all participating agen-
13 cies and to the State transportation de-
14 partment of the State in which the project
15 is located (and, if the State is not the
16 project sponsor, to the project sponsor);
17 and

18 “(ii) made available to the public.

19 “(2) COMMENT DEADLINES.—The lead agency
20 shall establish the following deadlines for comment
21 during the environmental review process for a
22 project:

23 “(A) For comments by agencies and the
24 public on a draft environmental impact state-
25 ment, a period of not more than 60 days after



1 publication in the Federal Register of notice of
2 the date of public availability of such document,
3 unless—

4 “(i) a different deadline is established
5 by agreement of the lead agency, the
6 project sponsor, and all participating agen-
7 cies; or

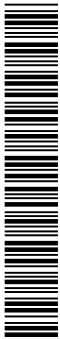
8 “(ii) the deadline is extended by the
9 lead agency for good cause.

10 “(B) For all other comment periods estab-
11 lished by the lead agency for agency or public
12 comments in the environmental review process,
13 a period of no more than 30 days from avail-
14 ability of the materials on which comment is re-
15 quested, unless—

16 “(i) a different deadline is established
17 by agreement of the lead agency, the
18 project sponsor, and all participating agen-
19 cies; or

20 “(ii) the deadline is extended by the
21 lead agency for good cause.

22 “(3) DEADLINES FOR DECISIONS UNDER
23 OTHER LAWS.—In any case in which a decision
24 under any Federal law relating to a project (includ-
25 ing the issuance or denial of a permit or license) is



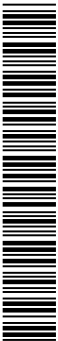
1 required to be made by the later of the date that is
2 180 days after the date on which the Secretary
3 made all final decisions of the lead agency with re-
4 spect to the project, or 180 days after the date on
5 which an application was submitted for the permit
6 or license, the Secretary shall submit to the Com-
7 mittee on Environment and Public Works of the
8 Senate and the Committee on Transportation and
9 Infrastructure of the House of Representatives—

10 “(A) as soon as practicable after the 180-
11 day period, an initial notice of the failure of the
12 Federal agency to make the decision; and

13 “(B) every 60 days thereafter until such
14 date as all decisions of the Federal agency re-
15 lating to the project have been made by the
16 Federal agency, an additional notice that de-
17 scribes the number of decisions of the Federal
18 agency that remain outstanding as of the date
19 of the additional notice.

20 “(4) INVOLVEMENT OF THE PUBLIC.—Nothing
21 in this subsection shall reduce any time period pro-
22 vided for public comment in the environmental re-
23 view process under existing Federal law, including a
24 regulation.

25 “(h) ISSUE IDENTIFICATION AND RESOLUTION.—



1 “(1) COOPERATION.—The lead agency and the
2 participating agencies shall work cooperatively in ac-
3 cordance with this section to identify and resolve
4 issues that could delay completion of the environ-
5 mental review process or could result in denial of
6 any approvals required for the project under applica-
7 ble laws.

8 “(2) LEAD AGENCY RESPONSIBILITIES.—The
9 lead agency shall make information available to the
10 participating agencies as early as practicable in the
11 environmental review process regarding the environ-
12 mental and socioeconomic resources located within
13 the project area and the general locations of the al-
14 ternatives under consideration. Such information
15 may be based on existing data sources, including ge-
16 ographic information systems mapping.

17 “(3) PARTICIPATING AGENCY RESPONSIBIL-
18 ITIES.—Based on information received from the lead
19 agency, participating agencies shall identify, as early
20 as practicable, any issues of concern regarding the
21 project’s potential environmental or socioeconomic
22 impacts. In this paragraph, issues of concern include
23 any issues that could substantially delay or prevent
24 an agency from granting a permit or other approval
25 that is needed for the project.



1 “(4) ISSUE RESOLUTION.—

2 “(A) MEETING OF PARTICIPATING AGEN-
3 CIES.—At any time upon request of a project
4 sponsor or the Governor of a State in which the
5 project is located, the lead agency shall prompt-
6 ly convene a meeting with the relevant partici-
7 pating agencies, the project sponsor, and the
8 Governor (if the meeting was requested by the
9 Governor) to resolve issues that could delay
10 completion of the environmental review process
11 or could result in denial of any approvals re-
12 quired for the project under applicable laws.

13 “(B) NOTICE THAT RESOLUTION CANNOT
14 BE ACHIEVED.—If a resolution cannot be
15 achieved within 30 days following such a meet-
16 ing and a determination by the lead agency that
17 all information necessary to resolve the issue
18 has been obtained, the lead agency shall notify
19 the heads of all participating agencies, the
20 project sponsor, the Governor, the Committee
21 on Environment and Public Works of the Sen-
22 ate, the Committee on Transportation and In-
23 frastructure of the House of Representatives,
24 and the Council on Environmental Quality, and



1 shall publish such notification in the Federal
2 Register.

3 “(i) PERFORMANCE MEASUREMENT.—The Secretary
4 shall establish a program to measure and report on
5 progress toward improving and expediting the planning
6 and environmental review process.

7 “(j) ASSISTANCE TO AFFECTED STATE AND FED-
8 ERAL AGENCIES.—

9 “(1) IN GENERAL.—For a project that is sub-
10 ject to the environmental review process established
11 under this section and for which funds are made
12 available to a State under this title or chapter 53 of
13 title 49, the Secretary may approve a request by the
14 a State to provide funds so made available under
15 this title or such chapter 53 to affected Federal
16 agencies (including the Department of Transpor-
17 tation), State agencies, and Indian tribes partici-
18 pating in the environmental review process for the
19 projects in that State or participating in a State
20 process that has been approved by the Secretary for
21 that State. Such funds may be provided only to sup-
22 port activities that directly and meaningfully con-
23 tribute to expediting and improving transportation
24 project planning and delivery for projects in that
25 State.



1 “(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Ac-
2 tivities for which funds may be provided under para-
3 graph (1) include transportation planning activities
4 that precede the initiation of the environmental re-
5 view process, dedicated staffing, training of agency
6 personnel, information gathering and mapping, and
7 development of programmatic agreements.

8 “(3) USE OF FEDERAL LANDS HIGHWAY
9 FUNDS.—The Secretary may also use funds made
10 available under section 204 for a project for the pur-
11 poses specified in this subsection with respect to the
12 environmental review process for the project.

13 “(4) AMOUNTS.—Requests under paragraph (1)
14 may be approved only for the additional amounts
15 that the Secretary determines are necessary for the
16 Federal agencies, State agencies, or Indian tribes
17 participating in the environmental review process to
18 meet the time limits for environmental review.

19 “(5) CONDITION.—A request under paragraph
20 (1) to expedite time limits for environmental review
21 may be approved only if such time limits are less
22 than the customary time necessary for such review.

23 “(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

24 “(1) JUDICIAL REVIEW.—Except as set forth
25 under subsection (l), nothing in this section shall af-



1 fect the reviewability of any final Federal agency ac-
2 tion in a court of the United States or in the court
3 of any State.

4 “(2) SAVINGS CLAUSE.—Nothing in this section
5 shall be construed as superseding, amending, or
6 modifying the National Environmental Policy Act of
7 1969 or any other Federal environmental statute or
8 affect the responsibility of any Federal officer to
9 comply with or enforce any such statute.

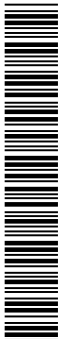
10 “(3) LIMITATIONS.—Nothing in this section
11 shall preempt or interfere with—

12 “(A) any practice of seeking, considering,
13 or responding to public comment; or

14 “(B) any power, jurisdiction, responsibility,
15 or authority that a Federal, State, or local gov-
16 ernment agency, metropolitan planning organi-
17 zation, Indian tribe, or project sponsor has with
18 respect to carrying out a project or any other
19 provisions of law applicable to projects, plans,
20 or programs.

21 “(1) LIMITATIONS ON CLAIMS.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of law, a claim arising under Federal law
24 seeking judicial review of a permit, license, or ap-
25 proval issued by a Federal agency for a highway or



1 public transportation capital project shall be barred
2 unless it is filed within 180 days after publication of
3 a notice in the Federal Register announcing that the
4 permit, license, or approval is final pursuant to the
5 law under which the agency action is taken, unless
6 a shorter time is specified in the Federal law pursu-
7 ant to which judicial review is allowed. Nothing in
8 this subsection shall create a right to judicial review
9 or place any limit on filing a claim that a person has
10 violated the terms of a permit, license, or approval.

11 “(2) NEW INFORMATION.—The Secretary shall
12 consider new information received after the close of
13 a comment period if the information satisfies the re-
14 quirements for a supplemental environmental impact
15 statement under section 771.130 of title 23, Code of
16 Federal Regulations. The preparation of a supple-
17 mental environmental impact statement when re-
18 quired shall be considered a separate final agency
19 action and the deadline for filing a claim for judicial
20 review of such action shall be 180 days after the
21 date of publication of a notice in the Federal Reg-
22 ister announcing such action.”.

23 (b) EXISTING ENVIRONMENTAL REVIEW PROCESS.—
24 Nothing in this section affects any existing State environ-
25 mental review process, program, agreement, or funding ar-



1 rangement approved by the Secretary under section 1309
2 of the Transportation Equity Act for the 21st Century
3 (112 Stat. 232; 23 U.S.C. 109 note) as such section was
4 in effect on the day preceding the date of enactment of
5 the SAFETEA-LU.

6 (c) CONFORMING AMENDMENT.—The analysis for
7 such subchapter is amended by inserting after the item
8 relating to section 138 the following:

“139. Efficient environmental reviews for project decisionmaking.”.

9 (d) REPEAL.—Section 1309 of the Transportation
10 Equity Act for the 21st Century (112 Stat. 232) is re-
11 pealed.

12 **SEC. 6003. STATE ASSUMPTION OF RESPONSIBILITIES FOR**
13 **CERTAIN PROGRAMS AND PROJECTS.**

14 (a) IN GENERAL.—Chapter 3 of title 23, United
15 States Code, is amended by inserting after section 324 the
16 following:

17 **“§ 325. State assumption of responsibilities for cer-**
18 **tain programs and projects**

19 **“(a) ASSUMPTION OF SECRETARY’S RESPONSIBIL-**
20 **ITIES UNDER APPLICABLE FEDERAL LAWS.—**

21 **“(1) PILOT PROGRAM.—**

22 **“(A) ESTABLISHMENT.—**The Secretary
23 may establish a pilot program under which
24 States may assume the responsibilities of the



1 Secretary under any Federal laws subject to the
2 requirements of this section.

3 “(B) FIRST 3 FISCAL YEARS.—In the first
4 3 fiscal years following the date of enactment of
5 the SAFETEA-LU, the Secretary may allow up
6 to 5 States to participate in the pilot program.

7 “(2) SCOPE OF PROGRAM.—Under the pilot
8 program, the Secretary may assign, and a State may
9 assume, any of the Secretary’s responsibilities (other
10 than responsibilities relating to federally recognized
11 Indian tribes) for environmental reviews, consulta-
12 tion, or decisionmaking or other actions required
13 under any Federal law as such requirements apply
14 to the following projects:

15 “(A) Projects funded under section 104(h).

16 “(B) Transportation enhancement activi-
17 ties under section 133, as such term is defined
18 in section 101(a)(35).

19 “(b) AGREEMENTS.—

20 “(1) IN GENERAL.—The Secretary shall enter
21 into a memorandum of understanding with a State
22 participating in the pilot program setting forth the
23 responsibilities to be assigned under subsection
24 (a)(2) and the terms and conditions under which the
25 assignment is being made.



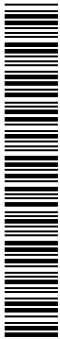
1 “(2) CERTIFICATION.—Before the Secretary en-
2 ters into a memorandum of understanding with a
3 State under paragraph (1), the State shall certify
4 that the State has in effect laws (including regula-
5 tions) applicable to projects carried out and funded
6 under this title and chapter 53 of title 49 that au-
7 thorize the State to carry out the responsibilities
8 being assumed.

9 “(3) MAXIMUM DURATION.—A memorandum of
10 understanding with a State under this section shall
11 be established for an initial period of no more than
12 3 years and may be renewed by mutual agreement
13 on a periodic basis for periods of not more than 3
14 years.

15 “(4) COMPLIANCE.—

16 “(A) IN GENERAL.—After entering into a
17 memorandum of understanding under para-
18 graph (1), the Secretary shall review and deter-
19 mine compliance by the State with the memo-
20 randum of understanding.

21 “(B) RENEWALS.—The Secretary shall
22 take into account the performance of a State
23 under the pilot program when considering re-
24 newal of a memorandum of understanding with
25 the State under the program.



1 “(5) SOLE RESPONSIBILITY.—A State that as-
2 sumes responsibility under subsection (a)(2) with re-
3 spect to a Federal law shall be solely responsible and
4 solely liable for complying with and carrying out
5 that law, and the Secretary shall have no such re-
6 sponsibility or liability.

7 “(6) ACCEPTANCE OF JURISDICTION.—In a
8 memorandum of understanding, the State shall con-
9 sent to accept the jurisdiction of the Federal courts
10 for the compliance, discharge, and enforcement of
11 any responsibility of the Secretary that the State as-
12 sumes.

13 “(c) SELECTION OF STATES FOR PILOT PROGRAM.—

14 “(1) APPLICATION.—To be eligible to partici-
15 pate in the pilot program, a State shall submit to
16 the Secretary an application that contains such in-
17 formation as the Secretary may require. At a min-
18 imum, an application shall include—

19 “(A) a description of the projects or class-
20 es of projects for which the State seeks to as-
21 sume responsibilities under subsection (a)(2);
22 and

23 “(B) a certification that the State has the
24 capability to assume such responsibilities.



1 “(2) PUBLIC NOTICE.—Before entering into a
2 memorandum of understanding allowing a State to
3 participate in the pilot program, the Secretary
4 shall—

5 “(A) publish notice in the Federal Register
6 of the Secretary’s intent to allow the State to
7 participate in the program, including a copy of
8 the State’s application to the Secretary and the
9 terms of the proposed agreement with the
10 State; and

11 “(B) provide an opportunity for public
12 comment.

13 “(3) SELECTION CRITERIA.—The Secretary
14 may approve the application of a State to assume re-
15 sponsibilities under the program only if—

16 “(A) the requirements under paragraph
17 (2) have been met; and

18 “(B) the Secretary determines that the
19 State has the capability to assume the respon-
20 sibilities.

21 “(4) OTHER FEDERAL AGENCY VIEWS.—Before
22 assigning to a State a responsibility of the Secretary
23 that requires the Secretary to consult with another
24 Federal agency, the Secretary shall solicit the views
25 of the Federal agency.



1 “(d) STATE DEFINED.—With respect to the rec-
2 reational trails program, the term ‘State’ means the State
3 agency designated by the Governor of the State in accord-
4 ance with section 206(c)(1).

5 “(e) PRESERVATION OF PUBLIC INTEREST CONSID-
6 ERATION.—Nothing in this section shall be construed to
7 limit the requirements under any applicable law providing
8 for the consideration and preservation of the public inter-
9 est, including public participation and community values
10 in transportation decisionmaking.”.

11 (b) CONFORMING AMENDMENT.—The analysis for
12 chapter 3 of title 23, United States Code, is amended by
13 adding after the item relating to section 324 the following:

“325. State assumption of responsibilities for certain programs and projects.”.

14 **SEC. 6004. STATE ASSUMPTION OF RESPONSIBILITY FOR**
15 **CATEGORICAL EXCLUSIONS.**

16 (a) IN GENERAL.—Chapter 3 of title 23, United
17 States Code, is further amended by inserting after section
18 325 the following:

19 **“§ 326. State assumption of responsibility for categor-**
20 **ical exclusions**

21 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

22 “(1) IN GENERAL.—The Secretary may assign,
23 and a State may assume, responsibility for deter-
24 mining whether certain designated activities are in-
25 cluded within classes of action identified in regula-



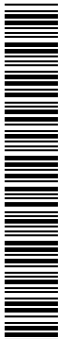
1 tion by the Secretary that are categorically excluded
2 from requirements for environmental assessments or
3 environmental impact statements pursuant to regu-
4 lations promulgated by the Council on Environ-
5 mental Quality under part 1500 of title 40, Code of
6 Federal Regulations (as in effect on October 1,
7 2003).

8 “(2) SCOPE OF AUTHORITY.—A determination
9 described in paragraph (1) shall be made by a State
10 in accordance with criteria established by the Sec-
11 retary and only for types of activities specifically
12 designated by the Secretary.

13 “(3) CRITERIA.—The criteria under paragraph
14 (2) shall include provisions for public availability of
15 information consistent with section 552 of title 5
16 and the National Environmental Policy Act of 1969
17 (42 U.S.C. 4321 et seq.).

18 “(b) OTHER APPLICABLE FEDERAL LAWS.—

19 “(1) IN GENERAL.—If a State assumes respon-
20 sibility under subsection (a), the Secretary may also
21 assign and the State may assume all or part of the
22 responsibilities of the Secretary for environmental
23 review, consultation, or other related actions re-
24 quired under any Federal law applicable to activities
25 that are classified by the Secretary as categorical ex-



1 clusions, with the exception of government-to-govern-
2 ment consultation with Indian tribes, subject to the
3 same procedural and substantive requirements as
4 would be required if that responsibility were carried
5 out by the Secretary.

6 “(2) SOLE RESPONSIBILITY.—A State that as-
7 sumes responsibility under paragraph (1) with re-
8 spect to a Federal law shall be solely responsible and
9 solely liable for complying with and carrying out
10 that law, and the Secretary shall have no such re-
11 sponsibility or liability.

12 “(c) MEMORANDA OF UNDERSTANDING.—

13 “(1) IN GENERAL.—The Secretary and the
14 State, after providing public notice and opportunity
15 for comment, shall enter into a memorandum of un-
16 derstanding setting forth the responsibilities to be
17 assigned under this section and the terms and condi-
18 tions under which the assignments are made, includ-
19 ing establishment of the circumstances under which
20 the Secretary would reassume responsibility for cat-
21 egorical exclusion determinations.

22 “(2) TERM.—A memorandum of
23 understanding—

24 “(A) shall have a term of not more than
25 3 years; and



1 “(B) shall be renewable.

2 “(3) ACCEPTANCE OF JURISDICTION.—In a
3 memorandum of understanding, the State shall con-
4 sent to accept the jurisdiction of the Federal courts
5 for the compliance, discharge, and enforcement of
6 any responsibility of the Secretary that the State as-
7 sumes.

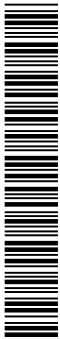
8 “(4) MONITORING.—The Secretary shall—

9 “(A) monitor compliance by the State with
10 the memorandum of understanding and the
11 provision by the State of financial resources to
12 carry out the memorandum of understanding;
13 and

14 “(B) take into account the performance by
15 the State when considering renewal of the
16 memorandum of understanding.

17 “(d) TERMINATION.—The Secretary may terminate
18 any assumption of responsibility under a memorandum of
19 understanding on a determination that the State is not
20 adequately carrying out the responsibilities assigned to the
21 State.

22 “(e) STATE AGENCY DEEMED TO BE FEDERAL
23 AGENCY.—A State agency that is assigned a responsibility
24 under a memorandum of understanding shall be deemed



1 to be a Federal agency for the purposes of the Federal
2 law under which the responsibility is exercised.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 chapter 3 of title 23, United States Code, is further
5 amended by adding after the item relating to section 325
6 the following:

“326. State assumption of responsibility for categorical exclusions.”.

7 **SEC. 6005. SURFACE TRANSPORTATION PROJECT DELIV-**
8 **ERY PILOT PROGRAM.**

9 (a) IN GENERAL.—Chapter 3 of title 23, United
10 States Code, is further amended by inserting after section
11 326 the following:

12 **“§ 327. Surface transportation project delivery pilot**
13 **program**

14 “(a) ESTABLISHMENT.—

15 “(1) IN GENERAL.—The Secretary shall carry
16 out a surface transportation project delivery pilot
17 program (referred to in this section as the ‘pro-
18 gram’).

19 “(2) ASSUMPTION OF RESPONSIBILITY.—

20 “(A) IN GENERAL.—Subject to the other
21 provisions of this section, with the written
22 agreement of the Secretary and a State, which
23 may be in the form of a memorandum of under-
24 standing, the Secretary may assign, and the
25 State may assume, the responsibilities of the



1 Secretary with respect to 1 or more highway
2 projects within the State under the National
3 Environmental Policy Act of 1969 (42 U.S.C.
4 4321 et seq.).

5 “(B) ADDITIONAL RESPONSIBILITY.—If a
6 State assumes responsibility under subpara-
7 graph (A)—

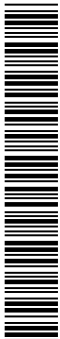
8 “(i) the Secretary may assign to the
9 State, and the State may assume, all or
10 part of the responsibilities of the Secretary
11 for environmental review, consultation, or
12 other action required under any Federal
13 environmental law pertaining to the review
14 or approval of a specific project; but

15 “(ii) the Secretary may not assign—

16 “(I) responsibility for any con-
17 formity determination required under
18 section 176 of the Clean Air Act (42
19 U.S.C. 7506); or

20 “(II) any responsibility imposed
21 on the Secretary by section 134 or
22 135.

23 “(C) PROCEDURAL AND SUBSTANTIVE RE-
24 QUIREMENTS.—A State shall assume responsi-
25 bility under this section subject to the same



1 procedural and substantive requirements as
2 would apply if that responsibility were carried
3 out by the Secretary.

4 “(D) FEDERAL RESPONSIBILITY.—Any re-
5 sponsibility of the Secretary not explicitly as-
6 sumed by the State by written agreement under
7 this section shall remain the responsibility of
8 the Secretary.

9 “(E) NO EFFECT ON AUTHORITY.—Noth-
10 ing in this section preempts or interferes with
11 any power, jurisdiction, responsibility, or au-
12 thority of an agency, other than the Depart-
13 ment of Transportation, under applicable law
14 (including regulations) with respect to a
15 project.

16 “(b) STATE PARTICIPATION.—

17 “(1) NUMBER OF PARTICIPATING STATES.—
18 The Secretary may permit not more than 5 States
19 (including the States of Alaska, California, Ohio,
20 Oklahoma, and Texas) to participate in the pro-
21 gram.

22 “(2) APPLICATION.—Not later than 270 days
23 after the date of enactment of this section, the Sec-
24 retary shall promulgate regulations that establish re-
25 quirements relating to information required to be



1 contained in any application of a State to participate
2 in the program, including, at a minimum—

3 “(A) the projects or classes of projects for
4 which the State anticipates exercising the au-
5 thority that may be granted under the program;

6 “(B) verification of the financial resources
7 necessary to carry out the authority that may
8 be granted under the program; and

9 “(C) evidence of the notice and solicitation
10 of public comment by the State relating to par-
11 ticipation of the State in the program, including
12 copies of comments received from that solici-
13 tation.

14 “(3) PUBLIC NOTICE.—

15 “(A) IN GENERAL.—Each State that sub-
16 mits an application under this subsection shall
17 give notice of the intent of the State to partici-
18 pate in the program not later than 30 days be-
19 fore the date of submission of the application.

20 “(B) METHOD OF NOTICE AND SOLICITA-
21 TION.—The State shall provide notice and so-
22 licit public comment under this paragraph by
23 publishing the complete application of the State
24 in accordance with the appropriate public notice
25 law of the State.



1 “(4) SELECTION CRITERIA.—The Secretary
2 may approve the application of a State under this
3 section only if—

4 “(A) the regulatory requirements under
5 paragraph (2) have been met;

6 “(B) the Secretary determines that the
7 State has the capability, including financial and
8 personnel, to assume the responsibility; and

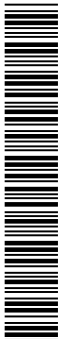
9 “(C) the head of the State agency having
10 primary jurisdiction over highway matters en-
11 ters into a written agreement with the Sec-
12 retary described in subsection (c).

13 “(5) OTHER FEDERAL AGENCY VIEWS.—If a
14 State applies to assume a responsibility of the Sec-
15 retary that would have required the Secretary to
16 consult with another Federal agency, the Secretary
17 shall solicit the views of the Federal agency before
18 approving the application.

19 “(c) WRITTEN AGREEMENT.—A written agreement
20 under this section shall—

21 “(1) be executed by the Governor or the top-
22 ranking transportation official in the State who is
23 charged with responsibility for highway construction;

24 “(2) be in such form as the Secretary may pre-
25 scribe;



1 “(3) provide that the State—

2 “(A) agrees to assume all or part of the re-
3 sponsibilities of the Secretary described in sub-
4 section (a);

5 “(B) expressly consents, on behalf of the
6 State, to accept the jurisdiction of the Federal
7 courts for the compliance, discharge, and en-
8 forcement of any responsibility of the Secretary
9 assumed by the State;

10 “(C) certifies that State laws (including
11 regulations) are in effect that—

12 “(i) authorize the State to take the
13 actions necessary to carry out the respon-
14 sibilities being assumed; and

15 “(ii) are comparable to section 552 of
16 title 5, including providing that any deci-
17 sion regarding the public availability of a
18 document under those State laws is review-
19 able by a court of competent jurisdiction;
20 and

21 “(D) agrees to maintain the financial re-
22 sources necessary to carry out the responsibil-
23 ities being assumed.

24 “(d) JURISDICTION.—



1 “(1) IN GENERAL.—The United States district
2 courts shall have exclusive jurisdiction over any civil
3 action against a State for failure to carry out any
4 responsibility of the State under this section.

5 “(2) LEGAL STANDARDS AND REQUIRE-
6 MENTS.—A civil action under paragraph (1) shall be
7 governed by the legal standards and requirements
8 that would apply in such a civil action against the
9 Secretary had the Secretary taken the actions in
10 question.

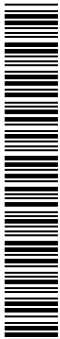
11 “(3) INTERVENTION.—The Secretary shall have
12 the right to intervene in any action described in
13 paragraph (1).

14 “(e) EFFECT OF ASSUMPTION OF RESPONSI-
15 BILITY.—A State that assumes responsibility under sub-
16 section (a)(2) shall be solely responsible and solely liable
17 for carrying out, in lieu of the Secretary, the responsibil-
18 ities assumed under subsection (a)(2), until the program
19 is terminated as provided in subsection (i).

20 “(f) LIMITATIONS ON AGREEMENTS.—Nothing in
21 this section permits a State to assume any rulemaking au-
22 thority of the Secretary under any Federal law.

23 “(g) AUDITS.—

24 “(1) IN GENERAL.—To ensure compliance by a
25 State with any agreement of the State under sub-



1 section (c) (including compliance by the State with
2 all Federal laws for which responsibility is assumed
3 under subsection (a)(2)), for each State partici-
4 pating in the program under this section, the Sec-
5 retary shall conduct—

6 “(A) semiannual audits during each of the
7 first 2 years of State participation; and

8 “(B) annual audits during each subsequent
9 year of State participation.

10 “(2) PUBLIC AVAILABILITY AND COMMENT.—

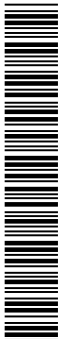
11 “(A) IN GENERAL.—An audit conducted
12 under paragraph (1) shall be provided to the
13 public for comment.

14 “(B) RESPONSE.—Not later than 60 days
15 after the date on which the period for public
16 comment ends, the Secretary shall respond to
17 public comments received under subparagraph
18 (A).

19 “(h) REPORT TO CONGRESS.—The Secretary shall
20 submit to Congress an annual report that describes the
21 administration of the program.

22 “(i) TERMINATION.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), the program shall terminate on the date



1 that is 6 years after the date of enactment of this
2 section.

3 “(2) TERMINATION BY SECRETARY.—The Sec-
4 retary may terminate the participation of any State
5 in the program if—

6 “(A) the Secretary determines that the
7 State is not adequately carrying out the respon-
8 sibilities assigned to the State;

9 “(B) the Secretary provides to the State—
10 “(i) notification of the determination
11 of noncompliance; and

12 “(ii) a period of at least 30 days dur-
13 ing which to take such corrective action as
14 the Secretary determines is necessary to
15 comply with the applicable agreement; and

16 “(C) the State, after the notification and
17 period provided under subparagraph (B), fails
18 to take satisfactory corrective action, as deter-
19 mined by Secretary.”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 3 of title 23, United States Code, is further
22 amended by adding after the item relating to section 326
23 the following:

 “327. Surface transportation project delivery pilot program.”.



1 **SEC. 6006. ENVIRONMENTAL RESTORATION AND POLLU-**
2 **TION ABATEMENT; CONTROL OF NOXIOUS**
3 **WEEDS AND AQUATIC NOXIOUS WEEDS AND**
4 **ESTABLISHMENT OF NATIVE SPECIES.**

5 (a) MODIFICATION TO NHS/STP FOR ENVIRON-
6 MENTAL RESTORATION, POLLUTION ABATEMENT, CON-
7 TROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS
8 WEEDS.—

9 (1) MODIFICATIONS TO NATIONAL HIGHWAY
10 SYSTEM.—Section 103(b)(6) of title 23, United
11 States Code, is amended by adding at the end the
12 following:

13 “(Q) Environmental restoration and pollu-
14 tion abatement in accordance with section 328.

15 “(R) Control of noxious weeds and aquatic
16 noxious weeds and establishment of native spe-
17 cies in accordance with section 329.”.

18 (2) MODIFICATIONS TO SURFACE TRANSPOR-
19 TATION PROGRAM.—Section 133(b) of title 23, is
20 amended by striking paragraph (14) and inserting
21 the following:

22 “(14) Environmental restoration and pollution
23 abatement in accordance with section 328.

24 “(15) Control of noxious weeds and aquatic
25 noxious weeds and establishment of native species in
26 accordance with section 329.”.



1 (b) ELIGIBLE ACTIVITIES.—Chapter 3 of title 23,
2 United States Code, is further amended by adding after
3 section 327 the following:

4 **“§ 328. Eligibility for environmental restoration and**
5 **pollution abatement**

6 “(a) IN GENERAL.—Subject to subsection (b), envi-
7 ronmental restoration and pollution abatement to mini-
8 mize or mitigate the impacts of any transportation project
9 funded under this title (including retrofitting and con-
10 struction of stormwater treatment systems to meet Fed-
11 eral and State requirements under sections 401 and 402
12 of the Federal Water Pollution Control Act (33 U.S.C.
13 1341; 1342)) may be carried out to address water pollu-
14 tion or environmental degradation caused wholly or par-
15 tially by a transportation facility.

16 “(b) MAXIMUM EXPENDITURE.—In a case in which
17 a transportation facility is undergoing reconstruction, re-
18 habilitation, resurfacing, or restoration, the expenditure of
19 funds under this section for environmental restoration or
20 pollution abatement described in subsection (a) shall not
21 exceed 20 percent of the total cost of the reconstruction,
22 rehabilitation, resurfacing, or restoration of the facility.



1 **“§ 329. Eligibility for control of noxious weeds and**
2 **aquatic noxious weeds and establishment**
3 **of native species**

4 “(a) IN GENERAL.—In accordance with all applicable
5 Federal law (including regulations), funds made available
6 to carry out this section may be used for the following
7 activities if such activities are related to transportation
8 projects funded under this title:

9 “(1) Establishment of plants selected by State
10 and local transportation authorities to perform one
11 or more of the following functions: abatement of
12 stormwater runoff, stabilization of soil, and aesthetic
13 enhancement.

14 “(2) Management of plants which impair or im-
15 pede the establishment, maintenance, or safe use of
16 a transportation system.

17 “(b) INCLUDED ACTIVITIES.—The establishment and
18 management under subsection (a)(1) and (a)(2) may
19 include—

20 “(1) right-of-way surveys to determine manage-
21 ment requirements to control Federal or State nox-
22 ious weeds as defined in the Plant Protection Act (7
23 U.S.C. 7701 et seq.) or State law, and brush or tree
24 species, whether native or nonnative, that may be
25 considered by State or local transportation authori-



1 ties to be a threat with respect to the safety or
2 maintenance of transportation systems;

3 “(2) establishment of plants, whether native or
4 nonnative with a preference for native to the max-
5 imum extent possible, for the purposes defined in
6 subsection (a)(1);

7 “(3) control or elimination of plants as defined
8 in subsection (a)(2);

9 “(4) elimination of plants to create fuel breaks
10 for the prevention and control of wildfires; and

11 “(5) training.

12 “(c) CONTRIBUTIONS.—

13 “(1) IN GENERAL.—Subject to paragraph (2),
14 an activity described in subsection (a) may be car-
15 ried out concurrently with, in advance of, or fol-
16 lowing the construction of a project funded under
17 this title.

18 “(2) CONDITION FOR ACTIVITIES CONDUCTED
19 IN ADVANCE OF PROJECT CONSTRUCTION.—An ac-
20 tivity described in subsection (a) may be carried out
21 in advance of construction of a project only if the
22 activity is carried out in accordance with all applica-
23 ble requirements of Federal law (including regula-
24 tions) and State transportation planning processes.”.



1 (c) CONFORMING AMENDMENT.—The analysis for
2 chapter 3 of title 23 is further amended by adding after
3 the item relating to section 327 the following:

“328. Eligibility for environmental restoration and pollution abatement.

“329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species.”.

4 **SEC. 6007. EXEMPTION OF INTERSTATE SYSTEM.**

5 Section 103(c) of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), the Interstate System shall
10 not be considered to be a historic site under
11 section 303 of title 49 or section 138 of this
12 title, regardless of whether the Interstate Sys-
13 tem or portions or elements of the Interstate
14 System are listed on, or eligible for listing on,
15 the National Register of Historic Places.

16 “(B) INDIVIDUAL ELEMENTS.—Subject to
17 subparagraph (C), the Secretary shall deter-
18 mine, through the administrative process estab-
19 lished for exempting the Interstate System from
20 section 106 of the National Historic Preserva-
21 tion Act (16 U.S.C. 470f), those individual ele-
22 ments of the Interstate System that possess na-
23 tional or exceptional historic significance (such
24 as a historic bridge or a highly significant engi-



1 neering feature). Such elements shall be consid-
2 ered to be a historic site under section 303 of
3 title 49 or section 138 of this title, as applica-
4 ble.

5 “(C) CONSTRUCTION, MAINTENANCE, RES-
6 TORATION, AND REHABILITATION ACTIVITIES.—
7 Subparagraph (B) does not prohibit a State
8 from carrying out construction, maintenance,
9 restoration, or rehabilitation activities for a por-
10 tion of the Interstate System referred to in sub-
11 paragraph (B) upon compliance with section
12 303 of title 49 or section 138 of this title, as
13 applicable, and section 106 of the National His-
14 toric Preservation Act (16 U.S.C. 470f).”.

15 **SEC. 6008. INTEGRATION OF NATURAL RESOURCE CON-**
16 **CERNS INTO TRANSPORTATION PROJECT**
17 **PLANNING.**

18 Section 109(c)(2) of title 23, United States Code, is
19 amended—

20 (1) by striking “consider the results” and in-
21 serting “consider—

22 “(A) the results”;

23 (2) by striking the period at the end and insert-
24 ing a semicolon; and

25 (3) by adding at the end the following:



1 “(B) the publication entitled ‘Flexibility in
2 Highway Design’ of the Federal Highway Ad-
3 ministration;

4 “(C) ‘Eight Characteristics of Process to
5 Yield Excellence and the Seven Qualities of Ex-
6 cellence in Transportation Design’ developed by
7 the conference held during 1998 entitled
8 ‘Thinking Beyond the Pavement National
9 Workshop on Integrating Highway Develop-
10 ment with Communities and the Environment
11 while Maintaining Safety and Performance’;
12 and

13 “(D) any other material that the Secretary
14 determines to be appropriate.”.

15 **SEC. 6009. PARKS, RECREATION AREAS, WILDLIFE AND WA-**
16 **TERFOWL REFUGES, AND HISTORIC SITES.**

17 (a) PROGRAMS AND PROJECTS WITH DE MINIMIS
18 IMPACTS.—

19 (1) TITLE 23.—Section 138 of title 23, United
20 States Code, is amended—

21 (A) in the first sentence, by striking “it is
22 hereby” and inserting the following: “(a) DEC-
23 LARATION OF POLICY.—It is”; and

24 (B) by adding at the end the following:

25 “(b) DE MINIMIS IMPACTS.—



1 “(1) REQUIREMENTS.—

2 “(A) REQUIREMENTS FOR HISTORIC
3 SITES.—The requirements of this section shall
4 be considered to be satisfied with respect to an
5 area described in paragraph (2) if the Secretary
6 determines, in accordance with this subsection,
7 that a transportation program or project will
8 have a de minimis impact on the area.

9 “(B) REQUIREMENTS FOR PARKS, RECRE-
10 ATION AREAS, AND WILDLIFE OR WATERFOWL
11 REFUGES.—The requirements of subsection
12 (a)(1) shall be considered to be satisfied with
13 respect to an area described in paragraph (3) if
14 the Secretary determines, in accordance with
15 this subsection, that a transportation program
16 or project will have a de minimis impact on the
17 area. The requirements of subsection (a)(2)
18 with respect to an area described in paragraph
19 (3) shall not include an alternatives analysis.

20 “(C) CRITERIA.—In making any deter-
21 mination under this subsection, the Secretary
22 shall consider to be part of a transportation
23 program or project any avoidance, minimiza-
24 tion, mitigation, or enhancement measures that
25 are required to be implemented as a condition



1 of approval of the transportation program or
2 project.

3 “(2) HISTORIC SITES.—With respect to historic
4 sites, the Secretary may make a finding of de mini-
5 mis impact only if—

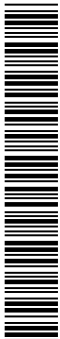
6 “(A) the Secretary has determined, in ac-
7 cordance with the consultation process required
8 under section 106 of the National Historic
9 Preservation Act (16 U.S.C. 470f), that—

10 “(i) the transportation program or
11 project will have no adverse effect on the
12 historic site; or

13 “(ii) there will be no historic prop-
14 erties affected by the transportation pro-
15 gram or project;

16 “(B) the finding of the Secretary has re-
17 ceived written concurrence from the applicable
18 State historic preservation officer or tribal his-
19 toric preservation officer (and from the Advi-
20 sory Council on Historic Preservation if the
21 Council is participating in the consultation
22 process); and

23 “(C) the finding of the Secretary has been
24 developed in consultation with parties con-



1 sulting as part of the process referred to in sub-
2 paragraph (A).

3 “(3) PARKS, RECREATION AREAS, AND WILD-
4 LIFE OR WATERFOWL REFUGES.—With respect to
5 parks, recreation areas, or wildlife or waterfowl ref-
6 uges, the Secretary may make a finding of de mini-
7 mis impact only if—

8 “(A) the Secretary has determined, after
9 public notice and opportunity for public review
10 and comment, that the transportation program
11 or project will not adversely affect the activities,
12 features, and attributes of the park, recreation
13 area, or wildlife or waterfowl refuge eligible for
14 protection under this section; and

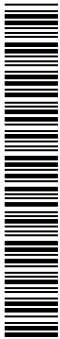
15 “(B) the finding of the Secretary has re-
16 ceived concurrence from the officials with juris-
17 diction over the park, recreation area, or wild-
18 life or waterfowl refuge.”.

19 (2) TITLE 49.—Section 303 of title 49, United
20 States Code, is amended—

21 (A) by striking “(c) The Secretary” and
22 inserting the following:

23 “(c) APPROVAL OF PROGRAMS AND PROJECTS.—
24 Subject to subsection (d), the Secretary”; and

25 (B) by adding at the end the following:



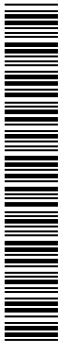
1 “(d) DE MINIMIS IMPACTS.—

2 “(1) REQUIREMENTS.—

3 “(A) REQUIREMENTS FOR HISTORIC
4 SITES.—The requirements of this section shall
5 be considered to be satisfied with respect to an
6 area described in paragraph (2) if the Secretary
7 determines, in accordance with this subsection,
8 that a transportation program or project will
9 have a de minimis impact on the area.

10 “(B) REQUIREMENTS FOR PARKS, RECRE-
11 ATION AREAS, AND WILDLIFE OR WATERFOWL
12 REFUGES.—The requirements of subsection
13 (c)(1) shall be considered to be satisfied with
14 respect to an area described in paragraph (3) if
15 the Secretary determines, in accordance with
16 this subsection, that a transportation program
17 or project will have a de minimis impact on the
18 area. The requirements of subsection (c)(2)
19 with respect to an area described in paragraph
20 (3) shall not include an alternatives analysis.

21 “(C) CRITERIA.—In making any deter-
22 mination under this subsection, the Secretary
23 shall consider to be part of a transportation
24 program or project any avoidance, minimiza-
25 tion, mitigation, or enhancement measures that



1 are required to be implemented as a condition
2 of approval of the transportation program or
3 project.

4 “(2) HISTORIC SITES.—With respect to historic
5 sites, the Secretary may make a finding of de mini-
6 mis impact only if—

7 “(A) the Secretary has determined, in ac-
8 cordance with the consultation process required
9 under section 106 of the National Historic
10 Preservation Act (16 U.S.C. 470f), that—

11 “(i) the transportation program or
12 project will have no adverse effect on the
13 historic site; or

14 “(ii) there will be no historic prop-
15 erties affected by the transportation pro-
16 gram or project;

17 “(B) the finding of the Secretary has re-
18 ceived written concurrence from the applicable
19 State historic preservation officer or tribal his-
20 toric preservation officer (and from the Advi-
21 sory Council on Historic Preservation if the
22 Council is participating in the consultation
23 process); and

24 “(C) the finding of the Secretary has been
25 developed in consultation with parties con-



1 sulting as part of the process referred to in sub-
2 paragraph (A).

3 “(3) PARKS, RECREATION AREAS, AND WILD-
4 LIFE OR WATERFOWL REFUGES.—With respect to
5 parks, recreation areas, or wildlife or waterfowl ref-
6 uges, the Secretary may make a finding of de mini-
7 mis impact only if—

8 “(A) the Secretary has determined, after
9 public notice and opportunity for public review
10 and comment, that the transportation program
11 or project will not adversely affect the activities,
12 features, and attributes of the park, recreation
13 area, or wildlife or waterfowl refuge eligible for
14 protection under this section; and

15 “(B) the finding of the Secretary has re-
16 ceived concurrence from the officials with juris-
17 diction over the park, recreation area, or wild-
18 life or waterfowl refuge.”.

19 (b) CLARIFICATION OF EXISTING STANDARDS.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary
22 shall (in consultation with affected agencies and in-
23 terested parties) promulgate regulations that clarify
24 the factors to be considered and the standards to be
25 applied in determining the prudence and feasibility



1 of alternatives under section 138 of title 23 and sec-
2 tion 303 of title 49, United States Code.

3 (2) REQUIREMENTS.—The regulations—

4 (A) shall clarify the application of the legal
5 standards to a variety of different types of
6 transportation programs and projects depending
7 on the circumstances of each case; and

8 (B) may include, as appropriate, examples
9 to facilitate clear and consistent interpretation
10 by agency decisionmakers.

11 (c) IMPLEMENTATION STUDY.—

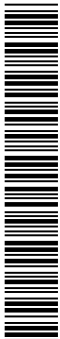
12 (1) IN GENERAL.—The Secretary shall—

13 (A) conduct a study on the implementation
14 of this section and the amendments made by
15 this section; and

16 (B) commission an independent review of
17 the study plan and methodology, and any asso-
18 ciated conclusions, by the Transportation Re-
19 search Board of the National Academy of
20 Sciences.

21 (2) COMPONENTS.—In conducting the study,
22 the Secretary shall evaluate—

23 (A) the processes developed under this sec-
24 tion and the amendments made by this section
25 and the efficiencies that may result;



1 (B) the post-construction effectiveness of
2 impact mitigation and avoidance commitments
3 adopted as part of projects conducted under
4 this section and the amendments made by this
5 section; and

6 (C) the quantity of projects with impacts
7 that are considered de minimis under this sec-
8 tion and the amendments made by this section,
9 including information on the location, size, and
10 cost of the projects.

11 (3) REPORT REQUIREMENT.—The Secretary
12 shall prepare—

13 (A) not earlier than the date that is 3
14 years after the date of enactment of this Act,
15 a report on the results of the study conducted
16 under this subsection; and

17 (B) not later than March 1, 2010, an up-
18 date on the report required under subparagraph
19 (A).

20 (4) REPORT RECIPIENTS.—The Secretary
21 shall—

22 (A) submit the report, review of the report,
23 and update required under paragraph (3) to—

24 (i) the appropriate committees of Con-
25 gress;



- 1 (ii) the Secretary of the Interior; and
2 (iii) the Advisory Council on Historic
3 Preservation; and
4 (B) make the report and update available
5 to the public.

6 **SEC. 6010. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT**
7 **SUPPORT DEPLOYMENT OF INTELLIGENT**
8 **TRANSPORTATION SYSTEMS.**

9 (a) CATEGORICAL EXCLUSIONS.—Not later than one
10 year after the date of enactment of this Act, the Secretary
11 shall initiate a rulemaking process to establish, to the ex-
12 tent appropriate, categorical exclusions for activities that
13 support the deployment of intelligent transportation infra-
14 structure and systems from the requirement that an envi-
15 ronmental assessment or an environmental impact state-
16 ment be prepared under section 102 of the National Envi-
17 ronmental Policy Act of 1969 (42 U.S.C. 4332) in compli-
18 ance with the standards for categorical exclusions estab-
19 lished by that Act.

20 (b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

21 (1) DEVELOPMENT.—The Secretary shall de-
22 velop a nationwide programmatic agreement gov-
23 erning the review of activities that support the de-
24 ployment of intelligent transportation infrastructure
25 and systems in accordance with section 106 of the



1 National Historic Preservation Act (16 U.S.C. 470f)
2 and the regulations of the Advisory Council on His-
3 toric Preservation.

4 (2) CONSULTATION.—The Secretary shall de-
5 velop the agreement under paragraph (1) in con-
6 sultation with the National Conference of State His-
7 toric Preservation Officers and the Advisory Council
8 on Historic Preservation established under title II of
9 the National Historic Preservation Act (26 U.S.C.
10 470i et seq.) and after soliciting the views of other
11 interested parties.

12 (c) INTELLIGENT TRANSPORTATION INFRASTRUC-
13 TURE AND SYSTEMS DEFINED.—In this section, the term
14 “intelligent transportation infrastructure and systems”
15 means intelligent transportation infrastructure and intel-
16 ligent transportation systems, as such terms are defined
17 in subtitle C of title V of this Act.

18 **SEC. 6011. TRANSPORTATION CONFORMITY.**

19 (a) CONFORMITY REDETERMINATIONS.—Section
20 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)) is
21 amended by adding at the end the following:

22 “(E) The appropriate metropolitan plan-
23 ning organization shall redetermine conformity
24 of existing transportation plans and programs



1 not later than 2 years after the date on which
2 the Administrator—

3 “(i) finds a motor vehicle emissions
4 budget to be adequate in accordance with
5 section 93.118(e)(4) of title 40, Code of
6 Federal Regulations (as in effect on Octo-
7 ber 1, 2004);

8 “(ii) approves an implementation plan
9 that establishes a motor vehicle emissions
10 budget if that budget has not yet been de-
11 termined to be adequate in accordance
12 with clause (i); or

13 “(iii) promulgates an implementation
14 plan that establishes or revises a motor ve-
15 hicle emissions budget.”.

16 (b) FREQUENCY OF CONFORMITY DETERMINATION
17 UPDATES.—Section 176(c)(4)(B)(ii) of the Clean Air Act
18 (42 U.S.C. 7506(c)(4)(B)(ii)) is amended to read as fol-
19 lows:

20 “(ii) address the appropriate frequency for
21 making conformity determinations, but the fre-
22 quency for making conformity determinations on up-
23 dated transportation plans and programs shall be
24 every 4 years, except in a case in which—



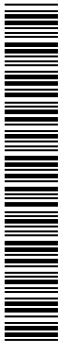
1 “(I) the metropolitan planning organiza-
2 tion elects to update a transportation plan or
3 program more frequently; or

4 “(II) the metropolitan planning organiza-
5 tion is required to determine conformity in ac-
6 cordance with paragraph (2)(E); and”.

7 (c) TIME HORIZON FOR CONFORMITY DETERMINA-
8 TIONS IN NONATTAINMENT AREAS.—Section 176(c) of
9 the Clean Air Act (42 U.S.C. 7506(c)) is amended by add-
10 ing at the end the following:

11 “(7) CONFORMITY HORIZON FOR TRANSPOR-
12 TATION PLANS.—

13 “(A) IN GENERAL.—Each conformity de-
14 termination required under this section for a
15 transportation plan under section 134(i) of title
16 23, United States Code, or section 5303(i) of
17 title 49, United States Code, shall require a
18 demonstration of conformity for the period end-
19 ing on either the final year of the transpor-
20 tation plan, or at the election of the metropoli-
21 tan planning organization, after consultation
22 with the air pollution control agency and solici-
23 tation of public comments and consideration of
24 such comments, the longest of the following pe-
25 riods:



1 “(i) The first 10-year period of any
2 such transportation plan.

3 “(ii) The latest year in the implemen-
4 tation plan applicable to the area that con-
5 tains a motor vehicle emission budget.

6 “(iii) The year after the completion
7 date of a regionally significant project if
8 the project is included in the transpor-
9 tation improvement program or the project
10 requires approval before the subsequent
11 conformity determination.

12 “(B) REGIONAL EMISSIONS ANALYSIS.—
13 The conformity determination shall be accom-
14 panied by a regional emissions analysis for the
15 last year of the transportation plan and for any
16 year shown to exceed emission budgets by a
17 prior analysis, if such year extends beyond the
18 applicable period as determined under subpara-
19 graph (A).

20 “(C) EXCEPTION.—In any case in which
21 an area has a revision to an implementation
22 plan under section 175A(b) and the Adminis-
23 trator has found the motor vehicles emissions
24 budgets from that revision to be adequate in ac-
25 cordance with section 93.118(e)(4) of title 40,

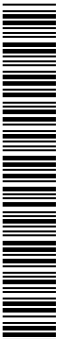


1 Code of Federal Regulations (as in effect on
2 October 1, 2004), or has approved the revision,
3 the demonstration of conformity at the election
4 of the metropolitan planning organization, after
5 consultation with the air pollution control agen-
6 cy and solicitation of public comments and con-
7 sideration of such comments, shall be required
8 to extend only through the last year of the im-
9 plementation plan required under section
10 175A(b).

11 “(D) EFFECT OF ELECTION.—Any election
12 by a metropolitan planning organization under
13 this paragraph shall continue in effect until the
14 metropolitan planning organization elects other-
15 wise.

16 “(E) AIR POLLUTION CONTROL AGENCY
17 DEFINED.—In this paragraph, the term ‘air
18 pollution control agency’ means an air pollution
19 control agency (as defined in section 302(b))
20 that is responsible for developing plans or con-
21 trolling air pollution within the area covered by
22 a transportation plan.”.

23 (d) SUBSTITUTION OF TRANSPORTATION CONTROL
24 MEASURES.—Section 176(c) of the Clean Air Act (42



1 U.S.C. 7506(c)) (as amended by subsection (c)) is amend-
2 ed by inserting after paragraph (7) the following:

3 “(8) SUBSTITUTION OF TRANSPORTATION CON-
4 TROL MEASURES.—

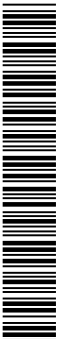
5 “(A) IN GENERAL.—Transportation con-
6 trol measures that are specified in an imple-
7 mentation plan may be replaced or added to the
8 implementation plan with alternate or addi-
9 tional transportation control measures—

10 “(i) if the substitute measures achieve
11 equivalent or greater emissions reductions
12 than the control measure to be replaced, as
13 demonstrated with an emissions impact
14 analysis that is consistent with the current
15 methodology used for evaluating the re-
16 placed control measure in the implementa-
17 tion plan;

18 “(ii) if the substitute control measures
19 are implemented—

20 “(I) in accordance with a sched-
21 ule that is consistent with the sched-
22 ule provided for control measures in
23 the implementation plan; or

24 “(II) if the implementation plan
25 date for implementation of the control



1 measure to be replaced has passed, as
2 soon as practicable after the imple-
3 mentation plan date but not later
4 than the date on which emission re-
5 ductions are necessary to achieve the
6 purpose of the implementation plan;

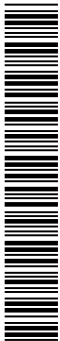
7 “(iii) if the substitute and additional
8 control measures are accompanied with evi-
9 dence of adequate personnel and funding
10 and authority under State or local law to
11 implement, monitor, and enforce the con-
12 trol measures;

13 “(iv) if the substitute and additional
14 control measures were developed through a
15 collaborative process that included—

16 “(I) participation by representa-
17 tives of all affected jurisdictions (in-
18 cluding local air pollution control
19 agencies, the State air pollution con-
20 trol agency, and State and local trans-
21 portation agencies);

22 “(II) consultation with the Ad-
23 ministrator; and

24 “(III) reasonable public notice
25 and opportunity for comment; and



1 “(v) if the metropolitan planning or-
2 ganization, State air pollution control
3 agency, and the Administrator concur with
4 the equivalency of the substitute or addi-
5 tional control measures.

6 “(B) ADOPTION.—(i) Concurrence by the
7 metropolitan planning organization, State air
8 pollution control agency and the Administrator
9 as required by subparagraph (A)(v) shall con-
10 stitute adoption of the substitute or additional
11 control measures so long as the requirements of
12 subparagraphs (A)(i), (A)(ii), (A)(iii) and
13 (A)(iv) are met.

14 “(ii) Once adopted, the substitute or addi-
15 tional control measures become, by operation of
16 law, part of the state implementation plan and
17 become federally enforceable.

18 “(iii) Within 90 days of its concurrence
19 under subparagraph (A)(v), the State air pollu-
20 tion control agency shall submit the substitute
21 or additional control measure to the Adminis-
22 trator for incorporation in the codification of
23 the applicable implementation plan.
24 Notwithstanding any other provision of this
25 Act, no additional State process shall be nec-



1 essary to support such revision to the applicable
2 plan.

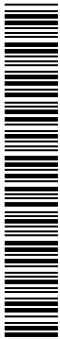
3 “(C) NO REQUIREMENT FOR EXPRESS
4 PERMISSION.—The substitution or addition of a
5 transportation control measure in accordance
6 with this paragraph and the funding or ap-
7 proval of such a control measure shall not be
8 contingent on the existence of any provision in
9 the applicable implementation plan that ex-
10 pressly permits such a substitution or addition.

11 “(D) NO REQUIREMENT FOR NEW CON-
12 FORMITY DETERMINATION.—The substitution
13 or addition of a transportation control measure
14 in accordance with this paragraph shall not
15 require—

16 “(i) a new conformity determination
17 for the transportation plan; or

18 “(ii) a revision of the implementation
19 plan.

20 “(E) CONTINUATION OF CONTROL MEAS-
21 URE BEING REPLACED.—A control measure
22 that is being replaced by a substitute control
23 measure under this paragraph shall remain in
24 effect until the substitute control measure is

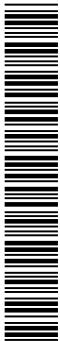


1 adopted by the State pursuant to subparagraph
2 (B).

3 “(F) EFFECT OF ADOPTION.—Adoption of
4 a substitute control measure shall constitute re-
5 scission of the previously applicable control
6 measure.”.

7 (e) LAPSE OF CONFORMITY.—Section 176(c) of the
8 Clean Air Act (42 U.S.C. 7506(c)) (as amended by sub-
9 sections (c) and (d)) is amended by inserting after para-
10 graph (8) the following:

11 “(9) LAPSE OF CONFORMITY.—If a conformity
12 determination required under this subsection for a
13 transportation plan under section 134(i) of title 23,
14 United States Code, or section 5303(i) of title 49,
15 United States Code, or a transportation improve-
16 ment program under section 134(j) of such title 23
17 or under section 5303(j) of such title 49 is not made
18 by the applicable deadline and such failure is not
19 corrected by additional measures to either reduce
20 motor vehicle emissions sufficient to demonstrate
21 compliance with the requirements of this subsection
22 within 12 months after such deadline or other meas-
23 ures sufficient to correct such failures, the transpor-
24 tation plan shall lapse.



1 “(10) LAPSE.—In this subsection, the term
2 ‘lapse’ means that the conformity determination for
3 a transportation plan or transportation improvement
4 program has expired, and thus there is no currently
5 conforming transportation plan or transportation
6 improvement program.”.

7 (f) CONFORMING AMENDMENTS.—Section 176(c)(4)
8 of the Clean Air Act (42 U.S.C. 7506(c)(4) (as amended
9 by subsection (b)) is amended—

10 (1) by redesignating subparagraphs (B), (C),
11 and (D) as subparagraphs (D), (E), and (F), respec-
12 tively;

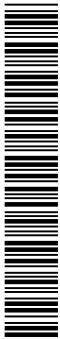
13 (2) by striking “(4)(A) No later than one year
14 after the date of enactment of the Clean Air Act
15 Amendments of 1990, the Administrator shall pro-
16 mulgate” and inserting the following:

17 “(4) CRITERIA AND PROCEDURES FOR DETER-
18 MINING CONFORMITY.—

19 “(A) IN GENERAL.—The Administrator
20 shall promulgate, and periodically update,”;

21 (3) in the second sentence of subparagraph
22 (A)—

23 (A) by striking “No later than one year
24 after such date of enactment, the Adminis-
25 trator, with the concurrence of the Secretary of



1 Transportation, shall promulgate” and inserting
2 the following:

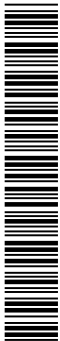
3 “(B) TRANSPORTATION PLANS, PROGRAMS,
4 AND PROJECTS.—The Administrator, with the
5 concurrence of the Secretary of Transportation,
6 shall promulgate, and periodically update,”; and

7 (B) in the third sentence, by striking “A
8 suit” and inserting the following:

9 “(C) CIVIL ACTION TO COMPEL PROMUL-
10 GATION.—A civil action”; and

11 (4) by striking subparagraph (E) (as redesign-
12 ated by paragraph (1)) and inserting the following:

13 “(E) INCLUSION OF CRITERIA AND PROCE-
14 DURES IN SIP.—Not later than 2 years after
15 the date of enactment of the SAFETEA-LU
16 the procedures under subparagraph (A) shall
17 include a requirement that each State include
18 in the State implementation plan criteria and
19 procedures for consultation required by sub-
20 paragraph (D)(i), and enforcement and enforce-
21 ability (pursuant to sections 93.125(c) and
22 93.122(a)(4)(ii) of title 40, Code of Federal
23 Regulations) in accordance with the Adminis-
24 trator’s criteria and procedures for consulta-
25 tion, enforcement and enforceability.”.



1 (g) REGULATIONS.—Not later than 2 years after the
2 date of enactment of this Act, the Administrator of the
3 Environmental Protection Agency shall promulgate re-
4 vised regulations to implement the changes made by this
5 section.

6 **SEC. 6012. FEDERAL REFERENCE METHOD.**

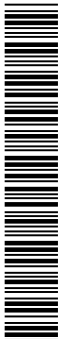
7 (a) IN GENERAL.—Section 6102(e) of the Transpor-
8 tation Equity Act for the 21st Century (42 U.S.C. 7407
9 note; 112 Stat. 464–465) is amended to read as follows:

10 “(e) FIELD STUDY.—Not later than 2 years after the
11 date of enactment of the SAFETEA-LU, the Adminis-
12 trator shall—

13 “(1) conduct a field study of the ability of the
14 PM_{2.5} Federal Reference Method to differentiate
15 those particles that are larger than 2.5 micrometers
16 in diameter;

17 “(2) develop a Federal reference method to
18 measure directly particles that are larger than 2.5
19 micrometers in diameter without reliance on sub-
20 tracting from coarse particle measurements those
21 particles that are equal to or smaller than 2.5 mi-
22 crometers in diameter;

23 “(3) develop a method of measuring the com-
24 position of coarse particles; and



1 “(4) submit a report on the study and respon-
2 sibilities of the Administrator under paragraphs (1)
3 through (3) to—

4 “(A) the Committee on Energy and Com-
5 merce of the House of Representatives; and

6 “(B) the Committee on Environment and
7 Public Works of the Senate.”.

8 **SEC. 6013. AIR QUALITY MONITORING DATA INFLUENCED**
9 **BY EXCEPTIONAL EVENTS.**

10 (a) IN GENERAL.—Section 319 of the Clean Air Act
11 (42 U.S.C. 7619) is amended—

12 (1) by striking the section heading and all that
13 follows through “after notice and opportunity for
14 public hearing” and inserting the following:

15 **“SEC. 319. AIR QUALITY MONITORING.**

16 “(a) IN GENERAL.—After notice and opportunity for
17 public hearing”; and

18 (2) by adding at the end the following:

19 “(b) AIR QUALITY MONITORING DATA INFLUENCED
20 BY EXCEPTIONAL EVENTS.—

21 “(1) DEFINITION OF EXCEPTIONAL EVENT.—In
22 this section:

23 “(A) IN GENERAL.—The term ‘exceptional
24 event’ means an event that—

25 “(i) affects air quality;



1 “(ii) is not reasonably controllable or
2 preventable;

3 “(iii) is an event caused by human ac-
4 tivity that is unlikely to recur at a par-
5 ticular location or a natural event; and

6 “(iv) is determined by the Adminis-
7 trator through the process established in
8 the regulations promulgated under para-
9 graph (2) to be an exceptional event.

10 “(B) EXCLUSIONS.—In this subsection,
11 the term ‘exceptional event’ does not include—

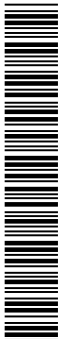
12 “(i) stagnation of air masses or mete-
13 orological inversions;

14 “(ii) a meteorological event involving
15 high temperatures or lack of precipitation;
16 or

17 “(iii) air pollution relating to source
18 noncompliance.

19 “(2) REGULATIONS.—

20 “(A) PROPOSED REGULATIONS.—Not later
21 than March 1, 2006, after consultation with
22 Federal land managers and State air pollution
23 control agencies, the Administrator shall pub-
24 lish in the Federal Register proposed regula-
25 tions governing the review and handling of air



1 quality monitoring data influenced by excep-
2 tional events.

3 “(B) FINAL REGULATIONS.—Not later
4 than 1 year after the date on which the Admin-
5 istrator publishes proposed regulations under
6 subparagraph (A), and after providing an op-
7 portunity for interested persons to make oral
8 presentations of views, data, and arguments re-
9 garding the proposed regulations, the Adminis-
10 trator shall promulgate final regulations gov-
11 erning the review and handling of air quality
12 monitoring data influenced by an exceptional
13 event that are consistent with paragraph (3).

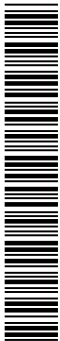
14 “(3) PRINCIPLES AND REQUIREMENTS.—

15 “(A) PRINCIPLES.—In promulgating regu-
16 lations under this section, the Administrator
17 shall follow—

18 “(i) the principle that protection of
19 public health is the highest priority;

20 “(ii) the principle that timely informa-
21 tion should be provided to the public in
22 any case in which the air quality is
23 unhealthy;

24 “(iii) the principle that all ambient air
25 quality data should be included in a timely



1 manner, an appropriate Federal air quality
2 database that is accessible to the public;

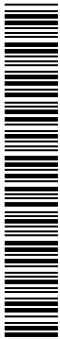
3 “(iv) the principle that each State
4 must take necessary measures to safeguard
5 public health regardless of the source of
6 the air pollution; and

7 “(v) the principle that air quality data
8 should be carefully screened to ensure that
9 events not likely to recur are represented
10 accurately in all monitoring data and anal-
11 yses.

12 “(B) REQUIREMENTS.—Regulations pro-
13 mulgated under this section shall, at a min-
14 imum, provide that—

15 “(i) the occurrence of an exceptional
16 event must be demonstrated by reliable,
17 accurate data that is promptly produced
18 and provided by Federal, State, or local
19 government agencies;

20 “(ii) a clear causal relationship must
21 exist between the measured exceedances of
22 a national ambient air quality standard
23 and the exceptional event to demonstrate
24 that the exceptional event caused a specific



1 air pollution concentration at a particular
2 air quality monitoring location;

3 “(iii) there is a public process for de-
4 termining whether an event is exceptional;
5 and

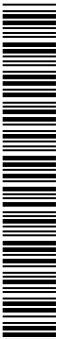
6 “(iv) there are criteria and procedures
7 for the Governor of a State to petition the
8 Administrator to exclude air quality moni-
9 toring data that is directly due to excep-
10 tional events from use in determinations by
11 the Administrator with respect to
12 exceedances or violations of the national
13 ambient air quality standards.

14 “(4) INTERIM PROVISION.—Until the effective
15 date of a regulation promulgated under paragraph
16 (2), the following guidance issued by the Adminis-
17 trator shall continue to apply:

18 “(A) Guidance on the identification and
19 use of air quality data affected by exceptional
20 events (July 1986).

21 “(B) Areas affected by PM-10 natural
22 events, May 30, 1996.

23 “(C) Appendices I, K, and N to part 50 of
24 title 40, Code of Federal Regulations.”.



1 **SEC. 6014. FEDERAL PROCUREMENT OF RECYCLED COOL-**
2 **ANT.**

3 (a) IN GENERAL.—Not later than 90 days after the
4 date of enactment of this Act, the President shall conduct
5 a review of Federal procurement policy of recycled coolant.

6 (b) ELEMENTS.—In conducting the review under
7 subsection (a), the President shall consider recycled cool-
8 ant produced from processes that—

9 (1) are energy efficient;

10 (2) generate no hazardous waste (as defined in
11 section 1004 of the Solid Waste Disposal Act (42
12 U.S.C. 6903));

13 (3) produce no emissions of air pollutants;

14 (4) present lower health and safety risks to em-
15 ployees at a plant or facility; and

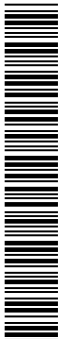
16 (5) recover at least 97 percent of the glycols
17 from used antifreeze feedstock.

18 **SEC. 6015. CLEAN SCHOOL BUS PROGRAM.**

19 (a) DEFINITIONS.—In this section, the following defi-
20 nitions apply:

21 (1) ADMINISTRATOR.—The term “Adminis-
22 trator” means the Administrator of the Environ-
23 mental Protection Agency.

24 (2) ALTERNATIVE FUEL.—The term “alter-
25 native fuel” means—



1 (A) liquefied natural gas, compressed nat-
2 ural gas, liquefied petroleum gas, hydrogen, or
3 propane;

4 (B) methanol or ethanol at no less than 85
5 percent by volume; or

6 (C) biodiesel conforming with standards
7 published by the American Society for Testing
8 and Materials as of the date of enactment of
9 this Act.

10 (3) CLEAN SCHOOL BUS.—The term “clean
11 school bus” means a school bus with a gross vehicle
12 weight of greater than 14,000 pounds that—

13 (A) is powered by a heavy duty engine; and

14 (B) is operated solely on an alternative
15 fuel or ultra-low sulfur diesel fuel.

16 (4) ELIGIBLE RECIPIENT.—

17 (A) IN GENERAL.—Subject to subpara-
18 graph (B), the term “eligible recipient”
19 means—

20 (i) one or more local or State govern-
21 mental entities responsible for providing
22 school bus service to one or more public
23 school systems or the purchase of school
24 buses;



- 1 (ii) one or more contracting entities
2 that provide school bus service to one or
3 more public school systems; or
4 (iii) a nonprofit school transportation
5 association.

6 (B) SPECIAL REQUIREMENTS.—In the case
7 of eligible recipients identified under clauses (ii)
8 and (iii) of subparagraph (A), the Adminis-
9 trator shall establish timely and appropriate re-
10 quirements for notice and may establish timely
11 and appropriate requirements for approval by
12 the public school systems that would be served
13 by buses purchased or retrofit using grant
14 funds made available under this section.

15 (5) RETROFIT TECHNOLOGY.—The term “ret-
16 rofit technology” means a particulate filter or other
17 emissions control equipment that is verified or cer-
18 tified by the Administrator or the California Air Re-
19 sources Board as an effective emission reduction
20 technology when installed on an existing school bus.

21 (6) SECRETARY.—The term “Secretary” means
22 the Secretary of Energy.

23 (7) ULTRA-LOW SULFUR DIESEL FUEL.—The
24 term “ultra-low sulfur diesel fuel” means diesel fuel



1 that contains sulfur at not more than 15 parts per
2 million.

3 (b) PROGRAM FOR RETROFIT OR REPLACEMENT OF
4 CERTAIN EXISTING SCHOOL BUSES WITH CLEAN
5 SCHOOL BUSES.—

6 (1) ESTABLISHMENT.—

7 (A) IN GENERAL.—The Administrator, in
8 consultation with the Secretary and other ap-
9 propriate Federal departments and agencies,
10 shall establish a program for awarding grants
11 on a competitive basis to eligible recipients for
12 the replacement of, retrofit (including
13 repowering, aftertreatment, and remanufac-
14 tured engines) of, or purchase of alternative
15 fuels for, certain existing school buses. The
16 awarding of grants for the purchase of alter-
17 native fuels should be consistent with the his-
18 toric funding levels of the program for such
19 purchase.

20 (B) BALANCING.—In awarding grants
21 under this section, the Administrator shall
22 achieve, to the maximum extent practicable,
23 achieve an appropriate balance between award-
24 ing grants—

25 (i) to replace school buses;



- 1 (ii) to install retrofit technologies; and
2 (iii) to purchase and use alternative
3 fuel.

4 (2) PRIORITY OF GRANT APPLICATIONS.—

5 (A) REPLACEMENT.—In the case of grant
6 applications to replace school buses, the Admin-
7 istrator shall give priority to applicants that
8 propose to replace school buses manufactured
9 before model year 1977.

10 (B) RETROFITTING.—In the case of grant
11 applications to retrofit school buses, the Admin-
12 istrator shall give priority to applicants that
13 propose to retrofit school buses manufactured
14 in or after model year 1991.

15 (3) USE OF SCHOOL BUS FLEET.—

16 (A) IN GENERAL.—All school buses ac-
17 quired or retrofitted with funds provided under
18 this section shall be operated as part of the
19 school bus fleet for which the grant was made
20 for not less than 5 years.

21 (B) MAINTENANCE, OPERATION, AND
22 FUELING.—New school buses and retrofit tech-
23 nology shall be maintained, operated, and fueled
24 according to manufacturer recommendations or
25 State requirements.



1 (4) RETROFIT GRANTS.—The Administrator
2 may award grants under this section for up to 100
3 percent of the retrofit technologies and installation
4 costs.

5 (5) REPLACEMENT GRANTS.—

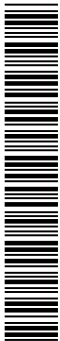
6 (A) ELIGIBILITY FOR 50 PERCENT
7 GRANTS.—The Administrator may award
8 grants under this section for replacement of
9 school buses in the amount of up to $\frac{1}{2}$ of the
10 acquisition costs (including fueling infrastruc-
11 ture) for —

12 (i) clean school buses with engines
13 manufactured in model year 2005 or 2006
14 that emit not more than—

15 (I) 1.8 grams per brake horse-
16 power-hour of non-methane hydro-
17 carbons and oxides of nitrogen; and

18 (II) .01 grams per brake horse-
19 power-hour of particulate matter; or

20 (ii) clean school buses with engines
21 manufactured in model year 2007, 2008,
22 or 2009 that satisfy regulatory require-
23 ments established by the Administrator for
24 emissions of oxides of nitrogen and partic-



1 ulate matter to be applicable for school
2 buses manufactured in model year 2010.

3 (B) ELIGIBILITY FOR 25 PERCENT
4 GRANTS.—The Administrator may award
5 grants under this section for replacement of
6 school buses in the amount of up to $\frac{1}{4}$ of the
7 acquisition costs (including fueling infrastruc-
8 ture) for —

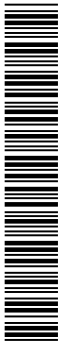
9 (i) clean school buses with engines
10 manufactured in model year 2005 or 2006
11 that emit not more than—

12 (I) 2.5 grams per brake horse-
13 power-hour of non-methane hydro-
14 carbons and oxides of nitrogen; and

15 (II) .01 grams per brake horse-
16 power-hour of particulate matter; or

17 (ii) clean school buses with engines
18 manufactured in model year 2007 or there-
19 after that satisfy regulatory requirements
20 established by the Administrator for emis-
21 sions of oxides of nitrogen and particulate
22 matter from school buses manufactured in
23 that model year.

24 (6) ULTRA-LOW SULFUR DIESEL FUEL.—



1 (A) IN GENERAL.—In the case of a grant
2 recipient receiving a grant for the acquisition of
3 ultra-low sulfur diesel fuel school buses with en-
4 gines manufactured in model year 2005 or
5 2006, the grant recipient shall provide, to the
6 satisfaction of the Administrator—

7 (i) documentation that diesel fuel con-
8 taining sulfur at not more than 15 parts
9 per million is available for carrying out the
10 purposes of the grant; and

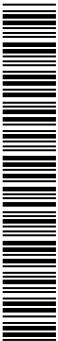
11 (ii) a commitment by the applicant to
12 use that fuel in carrying out the purposes
13 of the grant.

14 (7) DEPLOYMENT AND DISTRIBUTION.—The
15 Administrator, to the maximum extent practicable,
16 shall—

17 (A) achieve nationwide deployment of clean
18 school buses through the program under this
19 section; and

20 (B) ensure a broad geographic distribution
21 of grant awards, with no State receiving more
22 than 10 percent of the grant funding made
23 available under this section during a fiscal year.

24 (8) ANNUAL REPORT.—



1 (A) IN GENERAL.—Not later than January
2 31 of each year, the Administrator shall submit
3 to Congress a report that—

4 (i) evaluates the implementation of
5 this section; and

6 (ii) describes—

7 (I) the total number of grant ap-
8 plications received;

9 (II) the number and types of al-
10 ternative fuel school buses, ultra-low
11 sulfur diesel fuel school buses, and
12 retrofitted buses requested in grant
13 applications;

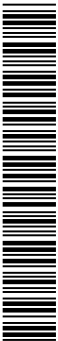
14 (III) grants awarded and the cri-
15 teria used to select the grant recipi-
16 ents;

17 (IV) certified engine emission lev-
18 els of all buses purchased or retro-
19 fitted under this section;

20 (V) an evaluation of the in-use
21 emission level of buses purchased or
22 retrofitted under this section; and

23 (VI) any other information the
24 Administrator considers appropriate.

25 (c) EDUCATION.—



1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Administrator
3 shall develop an education outreach program to pro-
4 mote and explain the grant program.

5 (2) COORDINATION WITH STAKEHOLDERS.—
6 The outreach program shall be designed and con-
7 ducted in conjunction with national school bus trans-
8 portation associations and other stakeholders.

9 (3) COMPONENTS.—The outreach program
10 shall—

11 (A) inform potential grant recipients on
12 the process of applying for grants;

13 (B) describe the available technologies and
14 the benefits of the technologies;

15 (C) explain the benefits of participating in
16 the grant program; and

17 (D) include, as appropriate, information
18 from the annual report required under sub-
19 section (b)(8).

20 (d) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Administrator to
22 carry out this section, to remain available until
23 expended—

24 (1) \$55,000,000 for each of fiscal years 2006
25 and 2007; and



1 (2) such sums as are necessary for each of fis-
2 cal years 2008, 2009, and 2010.

3 **SEC. 6016. SPECIAL DESIGNATION.**

4 For the purpose of any applicable program under title
5 23, United States Code, the city of Norman, Oklahoma,
6 shall be considered to be part of the Oklahoma City urban-
7 ized area.

8 **SEC. 6017. INCREASED USE OF RECOVERED MINERAL COM-
9 PONENT IN FEDERALLY FUNDED PROJECTS
10 INVOLVING PROCUREMENT OF CEMENT OR
11 CONCRETE.**

12 (a) IN GENERAL.—Subtitle F of the Solid Waste Dis-
13 posal Act (42 U.S.C. 6961 et seq.) is amended by adding
14 at the end the following:

15 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL
16 COMPONENT IN FEDERALLY FUNDED
17 PROJECTS INVOLVING PROCUREMENT OF
18 CEMENT OR CONCRETE.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) AGENCY HEAD.—The term ‘agency head’
21 means—

22 “(A) the Secretary of Transportation; and

23 “(B) the head of each other Federal agen-
24 cy that on a regular basis procures, or provides
25 Federal funds to pay or assist in paying the



1 cost of procuring, material for cement or con-
2 crete projects.

3 “(2) CEMENT OR CONCRETE PROJECT.—The
4 term ‘cement or concrete project’ means a project
5 for the construction or maintenance of a highway or
6 other transportation facility or a Federal, State, or
7 local government building or other public facility
8 that—

9 “(A) involves the procurement of cement
10 or concrete; and

11 “(B) is carried out in whole or in part
12 using Federal funds.

13 “(3) RECOVERED MINERAL COMPONENT.—The
14 term ‘recovered mineral component’ means—

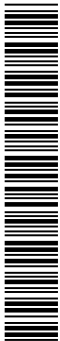
15 “(A) ground granulated blast furnace slag
16 other than lead slag;

17 “(B) coal combustion fly ash;

18 “(C) blast furnace slag aggregate other
19 than lead slag aggregate;

20 “(D) silica fume; and

21 “(E) any other waste material or byprod-
22 uct recovered or diverted from solid waste that
23 the Administrator, in consultation with an
24 agency head, determines should be treated as
25 recovered mineral component under this section



1 for use in cement or concrete projects paid for,
2 in whole or in part, by the agency head.

3 “(b) IMPLEMENTATION OF REQUIREMENTS.—

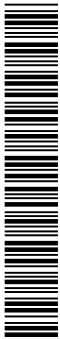
4 “(1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this section, the Adminis-
6 trator and each agency head shall take such actions
7 as are necessary to implement fully all procurement
8 requirements and incentives in effect as of the date
9 of enactment of this section (including guidelines
10 under section 6002) that provide for the use of ce-
11 ment and concrete incorporating recovered mineral
12 component in cement or concrete projects.

13 “(2) PRIORITY.—In carrying out paragraph (1)
14 an agency head shall give priority to achieving great-
15 er use of recovered mineral component in cement or
16 concrete projects for which recovered mineral compo-
17 nents historically have not been used or have been
18 used only minimally.

19 “(3) CONFORMANCE.—The Administrator and
20 each agency head shall carry out this subsection in
21 accordance with section 6002.

22 “(c) FULL IMPLEMENTATION STUDY.—

23 “(1) IN GENERAL.—The Administrator, in co-
24 operation with the Secretary of Transportation and
25 the Secretary of Energy, shall conduct a study to de-



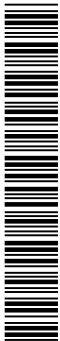
1 terminate the extent to which current procurement re-
2 quirements, when fully implemented in accordance
3 with subsection (b), may realize energy savings and
4 environmental benefits attainable with substitution
5 of recovered mineral component in cement used in
6 cement or concrete projects.

7 “(2) MATTERS TO BE ADDRESSED.—The study
8 shall—

9 “(A) quantify the extent to which recov-
10 ered mineral components are being substituted
11 for Portland cement, particularly as a result of
12 current procurement requirements, and the en-
13 ergy savings and environmental benefits associ-
14 ated with that substitution;

15 “(B) identify all barriers in procurement
16 requirements to greater realization of energy
17 savings and environmental benefits, including
18 barriers resulting from exceptions from current
19 law; and

20 “(C)(i) identify potential mechanisms to
21 achieve greater substitution of recovered min-
22 eral component in types of cement or concrete
23 projects for which recovered mineral compo-
24 nents historically have not been used or have
25 been used only minimally;



1 “(ii) evaluate the feasibility of establishing
2 guidelines or standards for optimized substi-
3 tution rates of recovered mineral component in
4 those cement or concrete projects; and

5 “(iii) identify any potential environmental
6 or economic effects that may result from great-
7 er substitution of recovered mineral component
8 in those cement or concrete projects.

9 “(3) REPORT.—Not later than 30 months after
10 the date of enactment of this section, the Adminis-
11 trator shall submit to Congress a report on the
12 study.

13 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—
14 Unless the study conducted under subsection (c) identifies
15 any effects or other problems described in subsection
16 (c)(2)(C)(iii) that warrant further review or delay, the Ad-
17 ministrators and each agency head shall, not later than 1
18 year after the release of the report in accordance with sub-
19 section (c)(3), take additional actions authorized under
20 this Act to establish procurement requirements and incen-
21 tives that provide for the use of cement and concrete with
22 increased substitution of recovered mineral component in
23 the construction and maintenance of cement or concrete
24 projects, so as to—



1 “(1) realize more fully the energy savings and
2 environmental benefits associated with increased
3 substitution; and

4 “(2) eliminate barriers identified under sub-
5 section (c).

6 “(e) EFFECT OF SECTION.—Nothing in this section
7 affects the requirements of section 6002 (including the
8 guidelines and specifications for implementing those re-
9 quirements).”.

10 (b) TABLE OF CONTENTS AMENDMENT.—The table
11 of contents in section 1001 of the Solid Waste Disposal
12 Act (42 U.S.C. prec. 6901) is amended by adding after
13 the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded
projects involving procurement of cement or concrete.”.

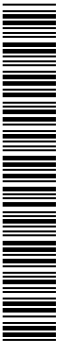
14 **SEC. 6018. USE OF GRANULAR MINE TAILINGS.**

15 (a) IN GENERAL.—Subtitle F of the Solid Waste Dis-
16 posal Act (42 U.S.C. 6961 et seq.) (as amended by section
17 6017(a)) is amended by adding at the end the following:

18 **“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

19 “(a) MINE TAILINGS.—

20 “(1) IN GENERAL.—Not later than 180 days
21 after the date of enactment of this section, the Ad-
22 ministrator, in consultation with the Secretary of
23 Transportation and heads of other Federal agencies,
24 shall establish criteria (including an evaluation of



1 whether to establish a numerical standard for con-
2 centration of lead and other hazardous substances)
3 for the safe and environmentally protective use of
4 granular mine tailings from the Tar Creek, Okla-
5 homa Mining District, known as ‘chat’, for—

6 “(A) cement or concrete projects; and

7 “(B) transportation construction projects
8 (including transportation construction projects
9 involving the use of asphalt) that are carried
10 out, in whole or in part, using Federal funds.

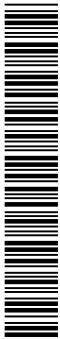
11 “(2) REQUIREMENTS.—In establishing criteria
12 under paragraph (1), the Administrator shall
13 consider—

14 “(A) the current and previous uses of
15 granular mine tailings as an aggregate for as-
16 phalt; and

17 “(B) any environmental and public health
18 risks and benefits derived from the removal,
19 transportation, and use in transportation
20 projects of granular mine tailings.

21 “(3) PUBLIC PARTICIPATION.—In establishing
22 the criteria under paragraph (1), the Administrator
23 shall solicit and consider comments from the public.

24 “(4) APPLICABILITY OF CRITERIA.—On the es-
25 tablishment of the criteria under paragraph (1), any



1 use of the granular mine tailings described in para-
2 graph (1) in a transportation project that is carried
3 out, in whole or in part, using Federal funds, shall
4 meet the criteria established under paragraph (1).

5 “(b) EFFECT OF SECTIONS.—Nothing in this section
6 or section 6005 affects any requirement of any law (in-
7 cluding a regulation) in effect on the date of enactment
8 of this section.”.

9 (b) CONFORMING AMENDMENT.—The table of con-
10 tents in section 1001 of the Solid Waste Disposal Act (42
11 U.S.C. prec. 6901) (as amended by section 6017(b)) is
12 amended by adding after the item relating to section 6005
13 the following:

“Sec. 6006. Use of granular mine tailings.”.

